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HEBREW UNION COLLEGE ANNUAL

Volumes LXX-LXXI

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Introduction

For almost two centuries, the academic study of the Jewish past and the course and direction of modern Judaism have been intertwined. The earliest practitioners of *Wissenschaft des Judentums* in Berlin in the 1820s as well as nineteenth-century luminaries ranging from the foremost leaders of Liberal Judaism such as Abraham Geiger and Zacharias Frankel to the Orthodox Esriel Hildesheimer did not regard the scholarly study of Judaism as a mere tool to unlock the heritage of the Jewish past. They viewed an academic approach to Judaism as a means to direct the path of Judaism in the present. Consequently, the Liberal Berlin Hochschule as well as the Positive-Historical Breslau Seminary and the Orthodox Berlin Rabbiner Seminar that were headed by each of these men annually published erudite academic investigations into the Jewish past and routinely employed the results of these essays and articles to buttress their own approaches to Judaism.

Modern scholars such as Gerson Cohen and Ismar Schorsch at the Jewish Theological Seminary and Michael Meyer and Jakob Petuchowski of the Hebrew Union College-Jewish Institute of Religion have provided ample documentation and analysis of this phenomenon, and each has demonstrated how these nineteenth-century savants were enthralled with the notion of historicism. Informed by the Hegelian ethos of their day, these earlier scholars believed that the "objective study" of the Jewish past would yield normative conclusions and guidance as to how Judaism should be practiced in the present. It was for this reason that these men insisted that significant articles of scholarship be included in the yearbooks and seminary reports they produced each year. Common to this body of scholarship was an underlying faith in academic method as the proper mode for investigation of the Jewish past. And yet, the practical applications emanating from this scholarship for modern-day Jewish life were quite diverse.

When Hebrew Union College was established in 1875, our founder Isaac Mayer Wise consciously followed in the footsteps of these European masters. He envisaged HUC as an American counterpart to the great German-language bastions of modern Jewish learning that had been created on Central European soil. Likewise, Sabato Morais displayed the same aspirations and adopted the same model of the modern seminary for the New York institution that became the Jewish Theological Seminary in 1886. Indeed, Wise and Morais were both determined to make HUC and JTS the academic equivalents of the great European centers of Jewish learning. One way they did this was by routinely including academic articles in their yearly reports on the state of their respective institutions.

However, it was only at the initiative of David Philipson and due to the influence of Kaufmann Kohler that the notion of an independent volume exclusively devoted to scholarship was conceived. As a result of the vision these two men

exhibited, the *Hebrew Union College Annual* was inaugurated in 1924 during the administration of President Julian Morgenstern. *Hebrew Union College Annual*, volume 1, a remarkable issue of 639 pages, is divided into "Biblical Studies, Hellenistic Studies, Talmudic Studies, Philosophical Studies, Poetic Studies, Historical Studies, and Modern Studies." The following year, in honor of the fiftieth anniversary of the College, a jubilee volume of academic articles was published. President Morgenstern himself published an article in the area of biblical scholarship in virtually every year of his presidency and every successive President of HUC-JIR has remained as wedded to the scholarly mission that HUCA embodies.

For seventy-five years the *Annual* has remained open to the leading Judaica scholars in the world as a setting in which they can display the fruits of their academic research. During that period, the *Annual* has become a foremost repository for Jewish scholarship during that entire period. In addition, HUCA serves as the primary face of the College-Institute to the academic world. Fortunately, as the contents of the current volume of the *Annual* indicate, the quality and scope of the scholarship printed in HUCA have not diminished over time. A wide range of topics is addressed and scholars on the College-Institute faculty along with academics throughout the world continue to choose the *Annual* as the venue for their academic work. The outstanding efforts of the current Editor and Associate Editor as well as their fine editorial board have preserved and extended the finest traditions of the *Annual*.

Of course, much has changed during the three-quarters of a century that the *Hebrew Union College Annual* has been in print. In our contemporary postmodern age, the objectivist claims of nineteenth-century historicism seem exaggerated, if not hollow. Ours is no longer a time that rings forth with the certainty and confidence that allowed our academic forebears to put forth their academically based normative claims for Judaism — however divergent these claims were. The practical implications of scholarship are hardly self-evident today. Nevertheless, one axiom our nineteenth-century ancestors put forth — that Judaism reflects the enduring power of religious and cultural tradition as well as the evolving influence of diverse contexts — seems as true today as it did 125 years ago when HUC opened its doors. Hence, the pursuit of scholarship, shorn of its absolutist claims, remains a vital part of the heritage that the *Hebrew Union College Annual* has bequeathed to the College-Institute in particular and modern Judaism in general. For this part of our legacy, we celebrate the *Annual* and are grateful to its editors and staff. Moreover, HUC-JIR takes great pride in the contributors to HUCA — the faculty, alumni, and scholars throughout the world who have assured the ongoing quality of the *Annual*. Finally, we remain most appreciative of the seminal and ongoing role the *Hebrew Union College Annual* plays in securing the reputation of the College-Institute in the academic world. I personally thank our

Editor, Professor Edward Goldman, and our Associate Editor, Professor Richard Sarason, for all their toil and congratulate them for the fruits of their labors.

In closing, I invoke and liberally recapitulate two blessings taken from Jewish tradition: I thank God for gracing humanity with discernment and for sharing divine wisdom with mortals. May the responsibility such discernment entails be displayed and honored through the publication of this volume. May the task of this journal to illuminate the Jewish heritage continue to leave its imprint on our community and contribute to the spiritual growth of our people for years to come.

David Ellenson
President

It is a happy coincidence that the seventy-fifth anniversary of the *Annual* corresponds approximately to the fiftieth anniversary of the School of Graduate Studies, located on the Cincinnati campus of HUC-JIR. The School was formally organized in 1947, and granted its first Ph.D. degree in 1951. The antecedents of the School, like those of the *Annual,* are to be found in institutions created by nineteenth-century *Wissenschaft des Judentums,* such as the Berlin Hochschule and the Breslau Seminary. These schools were closed by the Nazis, and the other centers of Jewish learning in continental Europe suffered similar destinies. After World War II, it was no longer possible to import Judaica scholars from Europe, as had been the custom in the past. It was necessary to be able to train scholars in America.

At the same time, advances in scholarship of the Hebrew Bible and the appreciation of the importance of Jewish sources for the study of the New Testament led to a new reality in the non-Jewish scholarly community. There was a need for opportunities for advanced study in the areas of Hebrew Bible and post-biblical Jewish literature. Accordingly, it was in response to the needs of both the Jewish and the non-Jewish world that the School of Graduate Studies came into being.

The School has continued to serve the broader academic world. Of the approximately 150 Ph.D. degrees that have been granted since 1951, more than half of these have gone to non-Jewish scholars. Indeed, one of the primary strengths of the school has been its interfaith community, founded on friendship and mutual respect. All graduate students take classes and share co-curricular activities with rabbinical students in an environment conducive to building religious understanding.

Of course, much has changed over the last 50 years. Particularly welcome developments are the spread of departments of Jewish studies on the campuses of American universities, and the return of Jewish studies to continental Europe, especially Germany. We believe, however, that the School of Graduate Studies at

HUC-JIR will continue to play an important role in the academic study of Judaism in the new century. The setting of the seminary still offers many advantages to those who would pursue an advanced degree in Bible and/or Jewish studies. Among these is the fact that our curriculum is built and coordinated in conjunction with a rabbinical curriculum rather than with an undergraduate curriculum in general Judaica. This means that many foundational courses, in which graduate students may study or serve as TAs, tend to focus on source texts in the original language rather than on survey-type material in English translation. For if there is one thing that we continue to share with our nineteenth-century predecessors, it is the belief that there is no substitute for rigorous philological study and knowledge of the original texts.

In a spirit of cooperation and great respect the School of Graduate Studies salutes the *Annual* on the celebration of its seventy-fifth anniversary, and congratulates the editor, Professor Goldman, and the others among its own alumni who have contributed to the present volume, along with all contributors. *Ad annum centesimum et vicesimum*!

Adam Kamesar
Director, School of Graduate Studies

Of Rattles and Rituals

The Anthropomorphic Rattle from the Nelson Glueck Collection at the Cincinnati Art Museum

Nili S. Fox, Angela R. Roskop
Hebrew Union College-Jewish Institute of Religion

In 1961, Nelson Glueck donated to the Cincinnati Art Museum a large female ceramic figurine which he had obtained in northern Transjordan. Only recently it was discovered that this figurine is a rattle. The fact that the rattle is anthropomorphic, coupled by its uncommonly large size for a rattle, renders the artifact unique. Unfortunately, the anthropomorphic rattle is unprovenanced. Nevertheless, after confirming its authenticity by thermoluminescence analysis, the authors undertook a search to identify the iconographic tradition and functional context of this artifact. The inquiry includes a brief study of extant rattle-type instruments from the ancient Near East and their cultural significance. A detailed evaluation of the Glueck anthropomorphic rattle, especially its iconography, has led the authors to assign it to an Iron II Edomite cultural milieu, specifically to a religious context. The rattle-figurine probably stood in a local shrine and functioned in cult ritual as a musical instrument and possibly as a representation of a goddess.

On the occasion of the 125th anniversary of Hebrew Union College-Jewish Institute of Religion, it is fitting to dedicate a paper to the memory of one of the College's most distinguished past presidents. Dr. Nelson Glueck is widely recognized among archaeologists and biblical scholars for his extensive contributions to biblical archaeology. In the course of Glueck's explorations in northern Transjordan, he obtained a ceramic figurine in the village of Ṣabkhah. Glueck identified this figurine, shaped like a nude female, as an Iron II "Astarte" type, noting its unique qualities: "I know of no other Astarte figurine just like it or of comparatively large size."[1] He published photos of the artifact in AASOR (1951) and in his book *Rivers in the Desert* (1959).[2] It was displayed at the Gemeentemuseum in the Netherlands in 1954 as part of an exhibition of ancient Israelite

1 Unpublished letter accompanying Glueck's gift of the figurine to the Cincinnati Art Museum (addressed to the museum director, Philip Adams, April 7, 1961).

2 Nelson Glueck, *Explorations in Eastern Palestine IV, Part I*, AASOR 25–28 (New Haven: ASOR, 1951) 20 fig. 13; Nelson Glueck, *Rivers in the Desert: A History of the Negev* (New York: Farrar, Straus, and Cudahy, 1959) 117 fig. 19.

Figure 1. Anthropomorphic rattle from the Nelson Glueck Collection. Scale 1:2. Drawing by Ilene Raubvogel.

artifacts,[3] and in 1961 Glueck donated it to the Cincinnati Art Museum, where it is currently housed (#1961.102).[4]

Curiously, Glueck never realized or acknowledged in print that the figurine is a rattle. This feature, recently discovered while preparing a sample from the figurine for thermoluminescence analysis, amplifies the uniqueness of the piece. It raises the following questions: Do other anthropomorphic rattles exist? Does this rattle-figurine fit into an identifiable iconographic tradition? What can we surmise about its chronological, geographic, and functional contexts? These questions guide the following brief study.

The Glueck Anthropomorphic Rattle

The Glueck anthropomorphic rattle (figs. 1–3) has a cylindrical torso and legs. The breasts and arms were modeled separately and attached; the arms are now broken off. The back side of the torso is sculpted to show the small of the back and the upper part of the buttocks. An opening representing the vagina serves as the sound hole for the rattle. The legs are hollow, possibly to accommodate wooden pegs upon which the rattle may have rested when not in use.[5] The head is formed in detail: the face has a pointed chin with clearly incised eyes and modeled ears, nose, and mouth; corked curls or braids are styled all around the head. The rattle has a smooth conical top. Pieces of shell and a round ceramic pellet about 2 cm in diameter can be seen inside. The figurine ranges in width from 8.60 cm to 15.5 cm, in depth from 5.13 cm to 9.88 cm, and is 32.5 cm in height.[6]

Claims that it was found in Dhibîn, north of the Syrian border, cannot be substantiated, rendering the Glueck rattle unprovenanced.[7] Its authenticity, however, has been confirmed by thermoluminescence analysis, which provided a date between 1300 and 100 B.C.E. for the firing of the object.[8] Our goal in this paper is to go beyond these few facts. We will attempt, first, to place the rattle-figurine in an iconographic tradition and, second, to suggest how and in what contexts it may have been used.

3 *Uit het Land van de Bijbel* (The Hague: Gemeentemuseum, 1954) pl. 56.

4 We gratefully acknowledge the Cincinnati Art Museum for permission to publish this artifact, particularly the cooperation and invaluable advice of Dr. Glenn Markoe, Curator of Classical and Near Eastern Art.

5 Vassos Karageorghis, personal communication May 31, 2000.

6 Measurements to two decimal points were taken with a caliper, those to one decimal point with a tape.

7 Glueck, *Eastern Palestine IV, Part I*, 22 fig. 13.

8 The thermoluminescence analysis was performed on sample no. N100a24 on January 17, 2000 by Doreen Stoneham of Oxford Authentication Ltd. Such a wide date range is normal in dating a clay sample without an accompanying soil sample from its findspot.

Figure 2. Anthropomorphic rattle from the Nelson Glueck Collection (#1961.102). Front. Photo courtesy of the Cincinnati Art Museum.

Figure 3. Anthropomorphic rattle from the Nelson Glueck Collection (# 1961.202). Back. Photo courtesy of the Cincinnati Art Museum.

The Glueck Anthropomorphic Rattle in its Iconographic Tradition

The Glueck rattle as a unit lacks a close parallel. Nevertheless, other artifacts do exist which exhibit similarities to specific features, namely the torso, legs, and arms; facial features; hairstyle; and conical top. Our search for parallels will focus on the eastern Mediterranean and Levant — the rattle's presumed cultural context — in an attempt to isolate a particular iconographic tradition into which it might fit.

Many features of the Glueck rattle have parallels in figurines from two sites in the Negev, Ḥorvat Qitmit[9] and 'En Ḥaẓeva.[10] The material culture at these two sites is generally considered "Edomite," although they are not in Edom proper. Some debate as to the nature of cultural influence, however, persists. Itzhaq Beit-Arieh, the senior excavator at Qitmit, suggests that Edom dominated the area toward the end of the 6th century B.C.E.[11] Rudolf Cohen and Yigal Israel, the senior excavators at Ḥaẓeva, however, reject the notion of Edomite political control in the Negev and suggest instead that economic influence explains the presence of Edomite material culture at these sites.[12] Edomites living in the Negev may also have been a conduit for cultural influence.[13] Scholars generally agree, however, that there is Edomite influence on the material culture of these sites. The figurines have features which can be linked to non-Judahite Levantine iconography in general, but certain features are also found on pottery from Edom proper.[14] This similarity, combined with the presence of the divine name Qos, the national god of Edom, in paleographic material from the Negev, has led Pirḥiya Beck to conclude that the figurines represent an Edomite artistic style.[15] While

9 Itzhaq Beit-Arieh, "New Light on the Edomites," *BAR* 14/2 (March/April 1988) 40 and Pirḥiya Beck, "Catalogue of Cult Objects and Study of the Iconography," in I. Beit-Arieh, ed., *Ḥorvat Qitmit: An Edomite Shrine in the Biblical Negev*, Tel Aviv University Institute of Archaeology Monograph Series 11 (Tel Aviv: Tel Aviv Univ. Institute of Archaeology, 1995) 27–208.

10 Rudolph Cohen and Yigal Yisrael, *On the Road to Edom: Discoveries from 'En Ḥaẓeva* (Jerusalem: The Israel Museum, 1995) 24 (29 in Heb.).

11 Itzhaq Beit-Arieh, "Qitmit, Ḥorvat," *OEANE* 4:391.

12 Rudolf Cohen and Yigal Yisrael, "Smashing the Idols: Piecing Together an Edomite Shrine in Judah," *BAR* 22/4 (July/August 1996) 51. Israel Finkelstein also argues that economic factors — particularly trade routes to the Arabian peninsula — explain the presence of Edomite material culture in the Negev, particularly at Qitmit ("Ḥorvat Qitmit and the Southern Trade in the Late Iron Age II," *ZDPV* 108 [1992] 156–170).

13 See Itzhaq Beit-Arieh, "Edomites Advance into Judah," *BAR* 22/6 (November/December 1996) 35, and Beck, "Catalog of Cult Objects," 189.

14 Cohen and Yisrael, "Smashing the Idols," 48.

15 Beck, "Catalog of Cult Objects," 189. Beck qualifies her case when she states, "The most perplexing problem however with regard to the suggested Edomite identity of the art of Ḥorvat Qitmit is its almost total absence from the land of Edom itself" (Beck, "Catalog of Cult Objects," 190); i.e., the

recognizing the general Levantine iconographic influence on these artifacts, we accept Beck's conclusion that they show an Edomite artistic tradition.

TORSO, LEGS, AND ARMS

The cylindrical torso of the Glueck rattle is similar to 7th century anthropomorphic cult stands from Qitmit and Ḥaẓeva. These cult stands consist of an inverted wheel-made jar-shape, the mouth of the jar forming the base of the stand; the head is formed separately and added on so that the base of the jar-shape gives the appearance of shoulders. The rattle's stump legs, like the bases of the Edomite cult stands, are narrower than the torso.[16] In contrast to the jar-shaped cult stands, the Glueck rattle is contoured to depict the waist and back of a human figure. Unlike the cult stands, the heads of which were made separately and added, the rattle has no shoulders; the rattle's head is the same width as its torso. This characteristic suggests that the entire figurine — torso and head — may have been made as one piece.

The broken arms of the Glueck rattle originally consisted of clay coils attached to the torso. Their poor state of preservation, however, makes it difficult to reconstruct their position and gesture. The arms of the Edomite stands discussed above are coils of clay positioned close to the body and bent at the elbows; one holds a vessel. Several female figurines from Cyprus ranging in date from the 11th to the 7th centuries B.C.E. also have coil-made arms, but they are in an upraised position.[17] The breakage on the left arm of an example from Old Paphos[18] resembles the breakage on the right arm of the Glueck rattle, suggesting that the latter's arms were also extended outward, rather than held at the side as on the Edomite stands.

The breasts on the anthropomorphic rattle are very small knobs of clay added to the wheel-made cylinder. The Cypriot figurines with uplifted hands mentioned above exhibit the same feature.[19] This method of representing breasts

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argument that these figurines are Edomite hinges on the similarity of a few specific features to Edomite material culture rather than a full parallel in Edom.

16 The two stump legs on the cylindrical torso are parallel to those of a figure in a window or niche depicted in a relief from Kouklia in Cyprus (Franz Georg Maier, *Alt-Paphos auf Cypern, Ausgrabungen zur Geschichte von Stadt und Heiligtum 1966–1984* [Mainz on the Rhine: Verlag Philipp von Zabern, 1985] pl.10:5).

17 See, for example, Vassos Karageorghis, *Cyprus from the Stone Age to the Romans* (London: Thames and Hudson, 1982) fig. 88; Vassos Karageorghis, *The Ancient Civilization of Cyprus* (New York: Cowles Education Corporation, 1969) pl.101; and Vassos Karageorghis, *Ancient Cyprus: 7,000 Years of Art & Archaeology* (Baton Rouge: Louisiana State Univ. Press, 1981) fig. 97.

18 Veronica Tatton-Brown, *Ancient Cyprus* (London: British Museum Press, 1998) fig. 70.

19 See, for example, Karageorghis, *Cyprus from the Stone Age*, fig. 88; Karageorghis, *Ancient Civilization of Cyprus*, pl.101; Karageorghis, *Ancient Cyprus: 7,000 Years*, fig. 97; and Tatton-Brown, *Ancient Cyprus*, fig. 70.

stands in stark contrast to breasts on Judahite pillar figurines, which are also added to the torso but are commonly larger and supported by the hands. The difference in representation is probably rooted in iconography, not in artistic convention. Breasts are the focal point of the Judahite pillar figurines – probably representing the idea of lactation – while the gesture of the hands – representing supplication, prayer, or blessing – is the focus of the Cypriot figurines, and possibly the Glueck rattle as well.

FACIAL FEATURES

The Glueck rattle's facial features have geographically and chronologically wide-ranging parallels, particularly in Cypriot and Edomite material culture. The horned head from Ḥorvat Qitmit[20] is especially significant in this regard. Features on the Qitmit head and other Edomite figurines are either incised or modeled separately and applied to the head,[21] as are the features on the Glueck rattle. Both the Qitmit head and the Glueck rattle have a pointed chin. The incised, asymmetrical, almond-shaped eyes on the rattle are strikingly similar to those on the Qitmit head;[22] traces of painted pupils are visible on the head, but not on the rattle.[23] Both the rattle and the head have the same prominent triangular nose with elongated nostrils. The horizontal, open, full-lipped mouth of the Glueck rattle is similar to a mouth on a face fragment from Ḥorvat Qitmit;[24] the mouth on the Qitmit head, although smiling, also has an open mouth and prominent lower lip. This combination of features bears a striking resemblance to three cast bronze statues, two male[25] and one female,[26] from the 13th/12th century "ingot god" sanctuary at Enkomi on Cyprus. Similar facial features continue to be modeled on Magenta Ware vases dating to the late 3rd–early 1st centuries B.C.E. from Cyprus,[27] but in a style distinct from that of Bronze and Iron Age examples.

HAIRSTYLE

The long corked curls or braids on the Glueck rattle have parallels throughout the eastern Mediterranean and Levant. A 12th century cast bronze statue found

20 Beck, "Catalogue of Cult Objects," 78–80 figs. 3.53–55 and 83 fig. 3.56.

21 Beck, "Catalogue of Cult Objects," 45.

22 The eyes on some of the Edomite cult stands are applied rather than incised, although they are still the same basic shape and some are asymmetrical. See Cohen and Yisrael, *On the Road to Edom*, 24.

23 An ultraviolet scan, conducted in the conservation laboratory of the Cincinnati Art Museum by Stephen Bonadies, revealed no traces of paint on the rattle.

24 Beck, "Catalogue of Cult Objects," 76 fig. 3.50 and 82 fig. 3.28.

25 Tatton-Brown, *Ancient Cyprus*, 63 fig. 69 and Kargeorghis, *Cyprus from the Stone Age*, 102 fig. 78.

26 Karageorghis, *Ancient Cyprus: 7,000 Years*, fig. 72.

27 Demetrios Michalides, "Magenta Ware in Cyprus Once More" in V. Karageorghis, R. Laffineur, and F. Vandenabeele, eds., *Four Thousand Years of Images on Cypriote Pottery, Proceedings of the Third*

in Syria but of Cypriot origin depicts a woman with a single corked curl.[28] Often curls or braids are depicted by impressing diagonal strokes into the coil, as on a female-shaped column on a ceramic model shrine from Megiddo[29] and a female anthropomorphic bichrome vase from Larnaca on Cyprus.[30] This technique of indicating curls or braids was employed on clay hair fragments, broken off of figurines from Ḥorvat Qitmit[31] and on the head from Qitmit. The hairstyle on the Glueck rattle features a full head of such curls or braids.

CONICAL TOP

The top on the Glueck rattle is conical in shape with a concave rim which sits on the head. Its shape could indicate a headdress similar to that worn by a number of Cypriot and Levantine figurines. In Cyprus, a stout cap is worn by both male and female figurines.[32] Levantine examples include a number of plaque figurines (probably male) from a tomb at the Amman Citadel,[33] female figurines from Tell el-Judeideh,[34] and a pillar figurine from Ugarit.[35] The head from Ḥorvat Qitmit has a conical "crown"; three horns protruding from its head identify it as a deity.[36] Pirḥiya Beck, in the publication of Ḥorvat Qitmit, compares the shape of this "crown" to rattles from Palestine[37] (fig. 4a). Joachim Braun, in his recent work on ancient Israelite music, also notes the similarity in shape. He argues further that the Qitmit head may have had a handle attached where the neck is broken and, therefore, was actually a rattle, reminiscent of a Hathor-headed sistrum.[38] The conical top on the Glueck rattle is also similar in

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International Conference on Cypriot Studies, Nicoisia, 3–4 May, 1996 (Brussels: A.G. Leventis Foundation, 1997) pls. XLIV–XLVII.

28 Karageorghis, *Ancient Cyprus: 7,000 Years*, 95 fig. 72.

29 Herbert Gordon May and Robert M. Engberg, *Material Remains of the Megiddo Cult*, OIP 26 (Chicago: Univ. of Chicago Press, 1935) pls. XIII–XIV. Two large Ammonite limestone figurines — one male and one female — also show this type of curled hairstyle (Piotr Bienkowski, *The Art of Jordan: Treasures from an Ancient Land* [Phoenix Mill, UK: Alan Sutton, 1991] 40 fig. 38 and 42 fig. 42).

30 Frieda Vandenabeele, "The Pictorial Decoration on the Cypriote Jugs with Figurines Holding an Oinochoe" in *Four Thousand Years of Images on Cypriote Pottery*, pl. XXXVIIa.

31 Beck, "Catalogue of Cult Objects," 80, 88–89 fig. 3.59 nos. 69, 71, 74, and 75.

32 Vassos Karageorghis, *The Coroplastic Art of Ancient Cyprus* (6 vols.; Nicoisia: A.G. Leventis Foundation, 1993) vol. 3, pl. VI:1 depicts a male example. A female example can be found in Karageorghis, *Coroplastic Art* (1998) vol. 5(A), pl. LVII:1.

33 Rudolph H. Dornemann, *The Archaeology of Transjordan in the Bronze and Iron Ages* (Milwaukee: Milwaukee Public Museum, 1983) 280 fig. 87:1–2.

34 Frederick Jones Bliss and R.A. Steward Macalister, *Excavations in Palestine During the Years 1898–1900* (London: Palestine Exploration Fund, 1902) pl. 68:10J and 8J.

35 Leila Badre, *Les figurines anthropomorphis en terre cuite à l'âge du Bronze en Syrie* (Paris: Librairie Paul Geuthner, 1980) pl. LIX:1.

36 Beck, "Catalogue of Cult Objects," 120–21.

37 Beck, "Catalogue of Cult Objects," 78.

38 Joachim Braun, *Die Musikkultur Altisraels/Palästinas: Studien zu archäologischen, schriftlichen und*

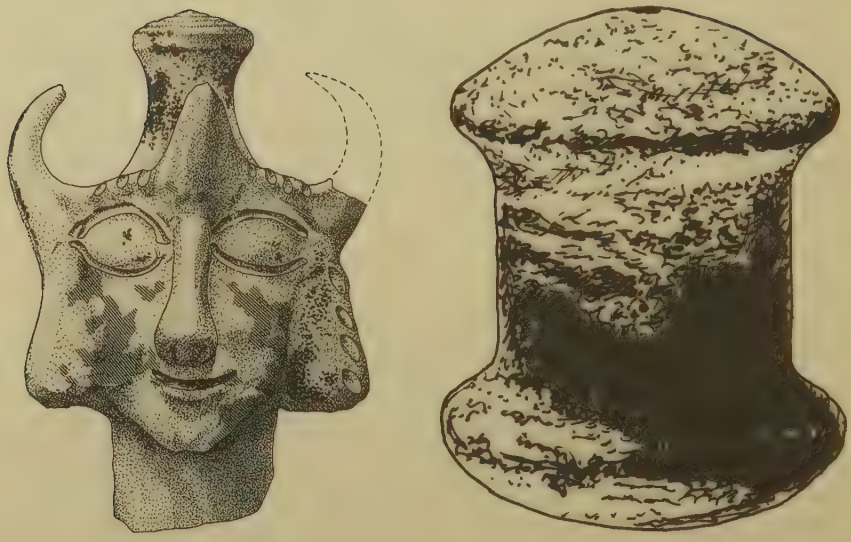

Figure 4a. The top of the horned head from Ḥorvat Qitmit (Beck, "Catalogue of Cult Objects," p. 78, fig. 3.53; reproduced with permission) is similar in shape to this barrel-shaped rattle from Lachish (Tufnell, *Lachish III*, pl. 28:15; drawing by Ilene Raubvogel).

Figure 4b. The conical cap on the Glueck rattle is similar in shape to this barrel shaped rattle from Hazor (Yadin, et. al., *Hazor II*, pl. CLXI:16). Drawings by Ilene Raubvogel.

shape to the conical ends on certain barrel-shaped rattles, especially examples from Gezer,[39] Hazor,[40] Megiddo,[41] and Tell el-Hesi[42] (fig. 4b). In both cases, it may identify the piece as a rattle *and* function as a headdress.[43]

The data presented above demonstrate that close parallels exist for individual features of the Glueck rattle — torso, facial features, hair, breasts, and arms. Some of these, such as the facial features, are attested over long periods of time, but, in general, the parallels are concentrated in the Late Bronze and Iron Ages. Despite the fact that parallels to individual features of the Glueck rattle can be found from Cyprus and throughout the Levant, the best evidence comes from Negev sites influenced by Edomite, rather than Judahite, material culture. The figurines from Ḥorvat Qitmit and 'En Ḥaẓeva — particularly the horned head from Qitmit — most closely parallel the Glueck rattle in that every feature of the rattle (except the breasts[44]) is found in Edomite iconography. Thus the Glueck rattle may belong to an Iron II Edomite cultural milieu.

Rattle-type Instruments and Their Contexts

A number of intact rattles have been uncovered in archaeological excavations in the eastern Mediterranean and the ancient Near East; unfortunately many lack

vergleichenden Quellen, OBO 164 (Göttingen: Vandenhoeck & Ruprecht, 1999) 195. The fact that the Glueck rattle depicts the entire body raises the possibility that the Qitmit head, if in fact it was a rattle, also had a body rather than a handle.

39 R.A.S. Macalister, *The Excavation of Gezer 1902–1905 and 1907–1909* (3 vols.; London: Palestine Exploration Fund, 1912) 2:305 fig. 445.4.

40 Yigael Yadin et al., *Hazor II: An Account of the Second Season of Excavations, 1956* (Jerusalem: Magnes Press, 1960) pls. LXXXVIII:18 and CLXI:15.

41 Gordon Loud, *Megiddo II: Seasons of 1935–39, Text and Plates*, OIP 42 (2 vols.; Chicago: Univ. of Chicago Press, 1948) 2:pl. 255:5.

42 Frederick Jones Bliss, *A Mound of Many Cities, or Tell el Hesy Excavated* (London: Palestine Exploration Fund, 1894) 120 no. 241.

43 Another figurine, from Tel Malḥata, with facial features and hair similar to those on the Qitmit head also has a cylindrical protrusion from its head, which may be similar to the rattle-like protrusion from the Qitmit head (Itzhaq Beit-Arieh, "Conclusion," in I. Beit-Arieh, ed., *Ḥorvat Qitmit: An Edomite Shrine in the Biblical Negev*, Tel Aviv University Institute of Archaeology Monograph Series 11 [Tel Aviv: Tel Aviv Univ. Institute of Archaeology, 1995] 315 fig. 9.4 and fn. 12). Furthermore, a model shrine has a knob-like projection from its roof. J. H. Iliffe ("A Model Shrine of Phoenician Style," *QDAP* 11 [1945] 91–92 and pl. XXI) suggests that this projection is a handle, although it may be too small to function as such. Beck ("Catalogue of Cultic Objects," 121) compares the shape of the Qitmit head's "crown" to this projection as well as to rattles from Palestine, as discussed above. It is possible that the knob-like projection on this shrine could be understood in connection with rattles as well.

44 No Edomite figurines are clearly female; therefore it is unknown how breasts would have been depicted.

a clear context. Fortuitously, a few painted, inlaid, and carved scenes, as well as texts, predominately from Egypt and to a lesser degree from Mesopotamia and the Aegean, depict the uses and cultural contexts of rattle-type instruments. In our attempt to determine how and in what contexts the Glueck rattle may have been used, we will examine artifacts, scenes, and texts pertaining to sistra and ceramic rattles.

SISTRA

The oldest and most widely attested rattle-type instrument from the ancient Near East is the sistrum (Greek *seistron*), an instrument with moveable parts on a frame — either movable rods or rods threaded with rings or discs — which produce sound when shaken.[45] Although its shape differs totally from that of closed-form rattles, the sistrum operates in a similar manner and is generally classified as a rattling idiophone, an instrument made from naturally sonorous material. Evidence of sistra is extant from Mesopotamia,[46] Egypt,[47] Anatolia,[48] and southern Canaan.

45 For a comprehensive study of sistra, see Bertil Söderberg, "The Sistrum," *Ethnos* 32 (1968) 90–133. It should be noted that these type of instruments are found worldwide.

46 At present, it cannot be determined whether the sistrum originated in Egypt or Mesopotamia and was transmitted from one region to the other, or whether it was invented independently at different sites. The earliest datable examples of sistra are Sumerian in origin. Sistra are absent from later Babylonian and Assyrian cultural remains, although other percussion instruments such as bells, cymbals, and a few ceramic rattles are attested (Henry G. Farmer, "The Music of Ancient Mesopotamia," *The New Oxford History of Music* [10 vols.; London: Oxford Univ. Press, 1957–74] 1:239–40). The seemingly short-lived popularity of the sistrum in Mesopotamia may explain the absence of an identifiable Sumerian or Akkadian term for the instrument in the written record. Farmer speculates that the term *ši-qa-tu* in the title of a Sumerian psalm (*KAR* 158 r. viii 37) may designate a rattle-type of musical instrument (Farmer, "Music of Ancient Mesopotamia," 1:240 n. 2). The meaning of this term, however, remains enigmatic (*CAD* ŠIII: 100–01), since it is attested only once, in this text as a type of song not necessarily named after a musical instrument, let alone a rattle. Adam Falkenstein translates the term $^{GIŠ}ḪAR·ḪAR$ (read *ḫarḫarri*) as "sistrum" in a Sumerian hymn (Adam Falkenstein and Wolfram von Soden, *Sumerische und Akkadische Hymnen und Gebete* [Zürich: Artemis-Verlag, 1953] 135), but the term refers to some kind of stringed instrument, although nothing in this context suggests that it designates a sistrum in particular (see *CAD* Ḥ: 100).

47 Evidence from Egypt spans a far longer time frame, in the Pharaonic period from the 6th to the 30th Dynasties. Beginning in the Middle Kingdom, two distinct terms distinguish two varieties of sistra regularly attested in texts: *sḫm* designates the older version of the sistrum, which is bow-shaped and made of wood or ceramic; *sšš* refers to the later rendition, constructed of metal and sometimes called a *naos* sistrum due to its shrine-like shape. Each type is rendered by a distinct hieroglyphic determinative, although the two are occasionally interchanged (Adolf Erman and Hermann Grapow, *Wörterbuch der ägyptischen Sprache*, 4:251–52, 486–87; Söderberg, "The Sistrum," 91; Christiane Ziegler, "Sistrum," in *LÄ* 5:959–63; and Farmer, "Music of Ancient Mesopotamia," 1:267).

48 A bronze sistrum with a caprid motif was found in an Early Bronze Age tomb at Horoztepe. See

Musical ensembles in two artistic representations from Mesopotamia include sistra. A sistrum is depicted on a seal impression of the Agade Period (ca. 2500 B.C.E.),[49] which shows a row of three musicians. One figure, identified as a deity by the rays emanating from its shoulders, sits on a lion throne before a drum-shaped altar.[50] A second figure playing a lyre and a third holding a sistrum sit facing the deity. Another sistrum is pictured on the inlay decoration of the Great Lyre from the king's tomb (tomb PG 789) at Ur (ca. 2700 B.C.E.).[51] Here the musicians are portrayed as animals (or costumed humans[52]): an ass plucks a lyre, a bear standing nearby holds a beam of the lyre or another instrument, and a small animal, perhaps a fox, shakes a spur-shaped sistrum. This animal orchestra seems to accompany the funeral banquet portrayed on the panel in the register above.[53] Besides the sistrum pictured on the lyre, remains of actual sistra were found in Queen Pu-Abi's tomb (tomb PG 800) and in another tomb (tomb PG 449);[54] they may have been used in the funeral ritual.

A biblical text depicting a musical ensemble marching in procession may include a reference to a rattle-type instrument. The term מנענעים[55] is listed together with several musical instruments (2 Samuel 6:5) played in the festive procession led by David on the occasion of the transfer of the ark from Gibeah to Jerusalem. If מנענעים refers to a rattle-type instrument as inferred, then this text shows that rattles or sistra were used in processions involving celebration

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Tahsin Özgüc and Mahmut Alok, "Horoztepe: Eski Tunç Devri Mezarlig ve Iskân Yeri (An Early Bronze Age Settlement and Cemetery)," *Turk Tarih Kurumu Yayinlarindan* 5:18 (Ankara: Turk Tarih Kurumu Basimevi, 1958) 42,48–49, pl. XII. Three other unprovenanced sistra of a similar type are pictured on pl. XVIII:1–3; these are assumed to be from Anatolia and to date to the Early Bronze Age.

49 Francis W. Galpin, *The Music of the Sumerians and Their Immediate Successors the Babylonians and Assyrians* (Cambridge: Cambridge Univ. Press, 1937) pl. II:3.

50 Ranier M. Boehner (*Die Entwicklung der Glyptik während der Akkad-zeit* [Berlin: Walter de Gruyter and Co., 1965] 68) suggests that this deity is Ishtar.

51 Galpin, *Music of the Sumerians*, pl. VIII:2. Tomb PG 789 is published in C. Leonard Woolley, *Ur Excavations. Volume II: The Royal Cemetery, A Report on the Predynastic and Sargonid Graves Excavated Between 1926 and 1931* (2 vols.; Publications of the Joint Expedition of the British Museum and of the Museum of the Univ. of Pensylvania to Mesopotamia; New York: The Carnegie Corporation, 1934).

52 The horse and bear appear to have human-like hands with fingers.

53 For a detailed description of the Great Lyre, see Donald Hansen, "Art of the Royal Tombs of Ur: A Brief Interpretation" in R. Zettler and L. Horne, eds., *Treasures from the Royal Tombs of Ur* (Philadelphia: Univ. of Pennsylvania Museum, 1998) 53–57

54 For these sistra remains, see Woolley, *Ur Excavations. Volume II*, 260–61, pl. 221, nos. U.8935 and U.8251.

55 מנענעים is a *pilpel* participle associated with the root נוע, "to move, shake." Based only on this etymology and the context, the term is usually translated "rattle" or "sistrum" (*HALOT* 2:603, 681–82; for a detailed discussion of possibilities, see Alfred Sendrey, *Music in Ancient Israel* [New York: Philosophical Library, 1969] 384–85 and Braun, *Die Musikkultur Altisraels*, 97). Although the sizable corpus of rattles and sistra from sites in Palestine suggests that there probably was a word in the Hebrew lexicon for such an object, 2 Sam 6:5 is the only instance of מנענעים in the Hebrew Bible and there are no cognates to provide a solid etymology.

and dancing. In this instance, the celebration is connected with an important cult object — the ark — but there is no reason to assume that musical processions were exclusively cultic.

In Egypt, the sistrum was associated with certain deities, primarily Hathor, the goddess of love, song, and dance. The cat-goddess Bastet, whose cult is connected with that of Hathor, is pictured on sistra or holding the instrument;[56] nevertheless, it is Hathor's head which is most often depicted at the base of the sistrum above the handle, usually on a *naos* sistrum.[57] Hathor herself is pictured holding a *naos* sistrum that displays her head, in reliefs from Egypt proper[58] and Ṣerabit el-Khadim in the Sinai.[59] It was believed that Hathor used her instrument as a medium for bestowing blessings on her devotees.[60] The existence of fragile, glazed ceramic sistra decorated with royal dedicatory inscriptions indicates that this instrument was considered a proper royal votive gift to Hathor.[61] A number of these sistra have been discovered at Hathor temples, even at those outside of Egypt proper, such as the Late Bronze Age temples at Timna and Ṣerabit el-Khadim.[62] The sistrum was not, however, limited to the service of Hathor. In fact, a number of queens and a few pharaohs are depicted bearing sistra when in the presence of other deities such as Amun, Osiris, and Isis.[63]

The predominance of females closely connected with the sistrum in the heavenly realm is reflected in the human realm. Women belonging to the royal household or priesthood, rather than men, generally played this instrument. In worship scenes from El-Amarna, Akhenaten's daughters are pictured with sistra, although the sistra are devoid of any Hathor images or symbols, no doubt in keeping with the ban on worship of deities other than the Aten.[64]

An important textual source which elucidates the function of the sistrum in Egypt is the Story of Sinuhe. It demonstrates that what initially may appear to be a secular act can in reality be cult ritual. Sistra are used in a palace performance staged by the royal children (possibly only the females[65]) on behalf of the aged

56 Henry G. Farmer, "The Music of Ancient Egypt," *The New Oxford History of Music*, 1:258.

57 See Luise Klebs, "Die verschiedenen Formen des Sistrums," *ZÄS* 67 (1931) figs. b, c, and e.

58 J.E. Gautier and Gustave Jéquier, "Mémoire sur les Fouilles de Licht," *Mémoire publiés par les Membres de l'Institut Français d'Archéologie Orientale du Caire* 6 (Cairo, 1902) 106 fig. 131.

59 Alan Gardiner, *The Inscriptions of Sinai* (London: Egypt Exploration Fund, 1952) 2:pl. xxv:89.

60 Manfred Lurker, *The Gods and Symbols of Ancient Egypt* (London: Thames and Hudson, 1974) 112.

61 See, for example, N. de Garis Davies, "An Alabaster Sistrum Dedicated by King Teta," *JEA* 6 (1920) 69–73.

62 Benno Rothenberg, *The Egyptian Mining Temple at Timna* (London: Institute for Archaeo-Metallurgical Studies, 1988) 117–19 figs. 27:1–4, 29:4–5, and 30:1–2; William Matthew Flinders Petrie, *Researches in the Sinai* (New York: E. P. Dutton, 1906) 146–47 pls. 151:4–15.

63 Klebs, "Die verschiedenen Formen," 60–63.

64 Klebs, "Die verschiedenen Formen," 62.

65 Alan Gardiner, *Notes on the Story of Sinuhe* (Paris: Librairie Honoré Champion, 1916) 100.

Sinuhe, who appears penitent before Pharaoh upon his return to Egypt from Canaan. Importantly, the song chanted by the children is accompanied by musical instruments, all of which are emblems of the goddess Hathor: the bow-shaped sistrum (*sḫm*), the *naos* sistrum (*sšš*), and the *mnjt*-bead necklace. The song concludes with a petition for Sinuhe's freedom (ll. 269–279).[66] Alan Gardiner observes in his commentary on Sinuhe that the purpose of the entertainment, which he suggests included dance, was to mimic the goddess associated with these particular objects. He notes that participants in such performances undergo a ritual transformation: "the performer *is* Hathor, the goddess of song and dance, who bestows her favours on the prince before whom the performance takes place."[67] Just as Hathor is pictured in paintings offering her emblems as gifts of life, prosperity, and health to various pharaohs, so the children in Sinuhe "present" their necklaces to the king.[68] While symbolic of Hathor and her gifts of good fortune, the sistra were also played for the power of their jingle to appease the gods' anger, in this case that of Pharaoh vis-à-vis Sinuhe.[69]

The popularity of the Egyptian sistrum as a percussion instrument employed in ritual is evident from its long-lived and widespread use. A Late Bronze Age bone handle of a sistrum, carved with a Hathor head, was found at Bethel in Canaan,[70] and a bronze statue of Bastet from Ashkelon holding a sistrum is dated to the same period.[71] By the second half of the first millennium the sistrum was disseminated throughout the Greek world, primarily through the Isis cult. In the Aegean and Europe it became an instrument associated with chthonic aspects of Hathor and Isis, thereby functioning mainly in mortuary rites.[72] In his description of elements of the Isis cult adapted into Roman religion, Lucan describes the sistrum as *iubentia luctus*, "compelling grief."[73]

In sum, the data on sistra demonstrate that this rattle-type instrument was multi-vocal, playing a variety of roles in ritual. Sistra were played in musical ensembles and employed in funerary rites such as banquets. They were also

66 English translation in Miriam Lichtheim, *Ancient Egyptian Literature* (3 vols.; Berkeley: Univ. of California Press, 1973) 1:232.

67 Gardiner, *Notes on the Story of Sinuhe*, 100.

68 For a detailed discussion of the instruments and song in the context of the performance, see Gardiner, *Notes on the Story of Sinuhe*, 100–104. Cf. ritual transformation of costumed performers (Nili S. Fox, "Clapping Hands as a Gesture of Anguish and Anger in Mesopotamia and in Israel," *JANES* 23 [1995] 56–60).

69 Hellmut Brunner, "Das Besänftigungslied im Sinuhe (B 269–279)," *ZÄS* 80 (1955) 5–11.

70 William Foxwell Albright, "The Kyle Memorial Excavation at Bethel," *BASOR* 56 (1934) 8–9 and fig. 7.

71 J. H. Iliffe, "A Hoard of Bronzes from Askalon," *QDAP* 5 (1936) 64–65 and pl. XXXII:2. Iliffe incorrectly dates this artifact to the 4th century (Iliffe, "Bronzes from Askalon," 61); the date is corrected by Lawrence Stager ("The Fury of Babylon: Ashkelon and the Archaeology of Destruction," *BAR* 22/1 [1996] 62).

72 Farmer, "Music of Ancient Egypt," 1:279–81; Söderberg, "The Sistrum," 125–26.

73 Lucan, *Pharsalia* 8.832.

used as votive offerings in temples and in ritual performances. It is noteworthy that sistra are associated primarily with women, both in terms of who played the instruments and which deities were affiliated with them.

CERAMIC RATTLES

In contrast to the sistrum common in Mesopotamia, Egypt, and later Aegean contexts, closed-form ceramic rattles are predominant in Bronze and Iron Age Palestine and, to a far lesser degree, in the Greco-Parthian period in Mesopotamia. Their use has been debated in publications since the end of the nineteenth century; theories offered at that time are still prevalent in the literature today. The two main theories hold that these rattles were used either as children's toys,[74] as is common in modern western cultures, or in cult,[75] reflecting the cross-cultural, historical function of rattles in ritual.[76] Specific ritual functions have been proposed, including dancing,[77] fertility cult,[78] offerings for the dead,[79] and to drive away evil spirits.[80] Since most ceramic rattles are too large for a young child's hand[81] and are breakable, the children's toy theory is less likely.[82] Other

74 A view held by Bliss, *Mound of Many Cities*, 117; Frederick Jones Bliss, "Third Report on the Excavations at Tell Zakarîya," *PEFQS* (1899) 183; Bliss and Macalister, *Excavations in Palestine*, 96; Duncan Mackenzie, *Excavations at Ain Shems (Beth-Shemesh)*, Palestine Exploration Fund Annual 2 (London: Palestine Exploration Fund, 1912–1913) 89; and Eann Macdonald, J. L. Starkey, and Lankester Harding, *Beth-Pelet II* (London: British School of Archaeology in Egypt, 1932) 23, 25. The same is said of rattles found on Cyprus (John L. Myres, *Handbook of the Cesnola Collection of Antiquities from Cyprus* [New York: Metropolitan Museum of Art, 1914] 43) and Nippur (Albert T. Clay, *Light on the Old Testament from Babel* [Philadelphia: The Sunday School Times Company, 1907] 195).

75 A view held by R. A. Stewart Macalister, "Second Preliminary Report on the Excavation of Gezer," *PEFQS* (1903) 46; Macalister, *Excavation of Gezer*, 3:305–06; May and Engberg, *Material Remains*, 26; and J. W. Crowfoot, Kathleen M. Kenyon, and E. L. Sukenik, *Samaria-Sebaste I: The Buildings at Samaria* (London: Palestine Exploration Fund, 1942) 22.

76 See, for example, James Blades, "Rattle," *The New Grove Dictionary of Music and Musicians* (20 vols.; London: Macmillan, 1980) 15:600–602; Hans Hickmann, "Rassel," *Die Musik in Geschichte und Gegenwart* (17 vols.; Basel: Bärenreiter Kassel, 1949–86) 11:7–12; and Söderberg, "The Sistrum," 90–133.

77 Macalister, "Second Preliminary Report," 46; and May and Engberg, *Material Remains*, 26. Elizabeth Bloch-Smith suggests that "rattles may have been provided for purposes of merriment and dance in conjunction with Bes" (*Judahite Burial Practices and Beliefs About the Dead*, JSOTSup 123, JSOT/ASOR Monograph Series 7 [Sheffield: JSOT Press, 1992] 103), although the authors know of no rattle which actually depicts Bes or is connected with the deity.

78 May and Engberg, *Material Remains*, 26.

79 Crowfoot, Kenyon, and Sukenik, *Samaria-Sebaste I*, 22; Bloch-Smith, *Judahite Burial Practices*, 94.

80 R. A. Stewart Macalister and Herbert E. Clark, "Some Interesting Pottery Remains," *PEFQS* (1915) 35.

81 R. A. Stewart Macalister and Olga Tufnell observed this over half a century ago (Macalister, "Second Preliminary Report," 46; Olga Tufnell, *Lachish III: The Iron Age* [2 vols.; London: Oxford Univ. Press, 1953] 1:376).

82 Bloch-Smith (*Judahite Burial Practices*, 103) has approached the issue from the perspective of the human remains associated with rattles in tombs — i.e., whether they are children or adults — but states that the osteological evidence is inconclusive.

secular uses, however, should not be ruled out. On the other hand, the various ritual explanations given in the literature, while plausible, are often vague and based on little direct evidence. Only a close examination of the rattles and the contexts in which they are found can result in more specific and better substantiated conclusions about their functions.

Based on a preliminary study of the closed-form ceramic rattles found in Palestine,[83] we can make some further observations about different types. Barrel-shaped rattles, the most common type, are grasped around the middle; most measure roughly 4 to 7 cm in diameter, a good size for an adult hand. Some examples have loop handles, while others have holes through knob-shaped handles and may have been suspended.[84] A rattle from Megiddo has a stick-like handle protruding from one end;[85] it resembles a gourd rattle or a sistrum and was likely employed in much the same way. The user could have held any of these rattle types two at a time, one in each hand.

Several ceramic rattles from Mesopotamia dating to the Greco-Parthian period (ca. 200 B.C.E.–100 C.E.) are similar in size to the rattles from Palestine and would also have been grasped in the hand. Like the Glueck rattle, some of these are anthropomorphic, in the form of a female bust. Two well-preserved rattles from Nippur depict women who may be musicians, since they press a round disc, perhaps a tambourine, to their breasts.[86] Two others from Seleucia on the Tigris hold an object in each hand pressed to the breast.[87] The objects held by one figurine are rounded but indistinguishable; the second figurine clasps a round object in one hand and a small bird in the other hand.[88] Interestingly, a disc shaped ceramic rattle, perhaps signifying a tambourine, and a ceramic rattle in the shape of a bird are attested from Nippur.[89] These artifacts raise the possibility that the objects held by the women pictured on the bust-shaped rattles

83 A full study of ceramic rattles from Palestine, their use, and possible foreign connections is currently being prepared by Angela Roskop.

84 E.g., Yigael Yadin et al., *Hazor III–IV: An Account of the Third and Fourth Seasons of Excavations, 1957–1958* (2 vols.; Jerusalem: Magnes Press, 1961) 2:pl. CCLXIX:24. A number of Bronze Age rattles from the Moor of Ljubljana in Slovenia were strung on a cord (Josip Korošec, "Nekaj Primerov Agodnje Predzgodovinskeplastike v Sloveniji," *Arheološki Vestnik, Acta Archaeologica* 1/1–2 [1950] 30 [Eng. sum.]).

85 Loud, *Megiddo II*, 2:pl. 255:5.

86 Leon Legrain, *Terra-Cottas from Nippur* (Philadelphia: Univ. of Pennsylvania, 1930) pl. XXVI:135 and 136. The women are wearing tunics and peaked caps with side projections, in the fashion of the period.

87 Wilhelmina van Ingen, *Figurines from Seleucia on the Tigris* (Ann Arbor: Univ. of Michigan, 1939) 222–23 nos. 839–41 and pls. LIII:839 and 841. These wear the same type of headdress as the figurines from Nippur cited above, as well as earrings and bracelets. In light of this, van Ingen's suggestion that these busts represent boys is unacceptable.

88 There is no photograph of the second figurine; the description is according to van Ingen, *Figurines from Seleucia*, 222 and pl. LIII:839, 223 no. 840.

89 Legrain, *Terra-Cottas from Nippur*, 35 and 37 pls. LXII:342 and LXIX:376.

are in fact rattle-type instruments. Although it is not clear whether the context is sacred or secular, these rattles also show that women played this instrument.

A group of Aegean Late Geometric vases (8th–7th centuries B.C.E.[90]), named for its painted geometric designs, depicts what are commonly known as "rattle scenes." The identity of the gourd-shaped objects held by the people in these scenes, however, is debated. Are they perhaps pomegranate-shaped sprinklers, spindles, cymbals of sorts, or rattles? What kind of activity does the scene represent — perhaps a banquet or a funeral ritual?[91] Recent opinion on the matter maintains that the objects are musical instruments — probably rattles, particularly since they appear to be swung or shaken vertically.[92] The striking similarity between the ceramic rattle from Megiddo mentioned above and the instruments depicted in these scenes lends further support to their identification as rattles. Since the vases themselves were created as funerary monuments and buried in tombs,[93] the rattles in the Geometric vase scenes are thought to be used in funerary rituals. Their use in pairs corresponds with the probable method of playing ceramic rattles, two at a time, one in each hand. According to Eva Rystedt, the rattles are pictured on the vases in different scenes — some with two mourners seated on either side of a table, others with a single mourner seated in a chair. If Rystedt's interpretation is correct, these scenes imply that rattles had multiple uses during a funeral and were not connected to a single, specific ritual. The sound of the rattle could perhaps express mourning or drive away evil spirits, as appropriate to the ritual process at any given point. Thus, these rattling instruments, comparable to sistra in Egyptian ritual, can be described as multi-vocal, even within a single cultic context.

A somewhat similar scene appears on a Neo-Hittite (Iron Age, 9th century B.C.E.) funerary stele, erected in honor of a deceased woman by her husband, from Maraş.[94] Two women, presumably representing the deceased, are seated

90 J.N. Coldstream, *Greek Geometric Pottery: A Survey of Ten Local Styles and their Chronology* (London: Methuen, 1968) 330.

91 See J. M. Cook, "A Geometric Graveside Scene," *BCH* 70 (1946) 97–101; Gudrun Ahlberg, "A Late Geometric Grave-scene Influenced by North Syrian Art," *Opuscula Atheniensia* 7 (1967) 177–86; John Boardman, "Attic Geometric Vase Scenes, Old and New," *JHS* 86 (1966) 1–5 pls. I–IV; Sheila McNally, "An Attic Geometric Vase in the Collection of Mt. Holyoke College," *AJA* 73/4 (1969) 459–64 pl. 127; and Eva Rystedt, "Notes on the Rattle Scenes on Attic Geometric Pottery" *Opuscula Atheniensia* 19/10 (1992) 125–33 for the details of this discussion.

92 This is Rystedt's conclusion after discussing how the Geometric painters depicted motion in general and, more specifically, what kind of motion is depicted in these "rattle" scenes (Rystedt, "Notes on the Rattle Scenes," 131–33). Rystedt's analysis presents a stronger case for interpreting the objects as rattles, although the idea appears as early as 1946 (Cook, "A Geometric Graveside Scene," 97–101).

93 Diane Harris-Cline, University of Cincinnati, personal communication.

94 John David Hawkins, *Corpus of Hieroglyphic Luwian Inscriptions. Volume I: Inscriptions of the Iron Age* (3 vols.; Berlin: Walter de Gruyter, 2000) 1:273–74 pl. 124.

on either side of a table. On the table are a goblet and flat objects, either plates or loaves of bread, suggesting a banquet scene. One of the women holds a mirror and the other holds a cup in one hand; in the other hand, each woman holds a gourd-shaped object similar in shape to those on the Late Geometric vase scenes. John David Hawkins identifies these objects as spindles, but they may in fact be rattles.[95] Since the rattles and the mirror do not seem to fit the banquet context, it is likely that this scene telescopes various activities within a ritual. That the deceased is the subject of the scene implies that the ritual can be connected with her burial or was performed by her in the afterlife.

The archaeological contexts of many rattles found in Palestine also suggest a funerary use for rattles. Although some rattles are from occupational contexts[96] and two were found in the inner sanctum of shrine 2133 at Hazor,[97] the majority of provenanced rattles are from tombs.[98] Interestingly, a rattle was found in an Iron II tomb at Khirbet el-Qôm, where one of the famous "Asherah" inscriptions was incised into the wall.[99] In this inscription, Asherah is addressed in a petition to deliver a man — presumably the occupant of the tomb — from his enemies.[100] Although no evidence explicitly connects Asherah with the dead, this inscription reveals the belief that she had power to protect her devotees. Elizabeth Bloch-Smith prompts us to understand burial goods "as cultural objects selected for

95 Hawkins, *Corpus of Hieroglyphic Luwian Inscriptions*, 273. The similarity between the gourd-shaped objects on the Maraş stele and the Late Geometric vase painting, and the similarity of both to the gourd-shaped rattle from Megiddo makes a strong case for these objects being rattles. In addition, however, it could be argued that the barrel-shaped ceramic rattles so common in Palestine are also in the shape of a spindle or spool; thus there may be some connection between the shape of a rattle and a spindle. Hawkins' observation concerning the spindle-shape of the objects is accurate, but he may not be correct about their identity.

96 Some of these are dump contexts and others are uncertain. The most certain examples are from area L at Tel 'Ira (Itzhaq Beit-Arieh, ed., *Tel 'Ira: A Stronghold in the Biblical Negev*, Tel Aviv University Institute of Archaeology Monograph Series 15 [Jerusalem: Institute of Archaeology, Tel Aviv Univ., 1999] 278 fig. 6.98 no. 12) and a courtyard at Hazor (Yadin, et al., *Hazor II*, pl. LXXXVIII: 18–19 and pl. CLXI:15–16). Possibly the most uncertain example comes from Macalister's trench 28 at Gezer, which contains irretrievably mixed material (Macalister, *Excavation of Gezer*, 2:305 fig. 445.3).

97 Yadin et al., *Hazor III–IV*, 2:pl. CCLXIX:24–25.

98 Of the 74 ceramic rattles from Palestine known to the authors, 56 are from clear contexts. Of the 56, 31 are from tomb contexts, 16 are from occupational contexts, 5 are from dump contexts (cistern or fill), 4 are from possible or certain cultic areas.

99 William G. Dever, "Iron Age Epigraphic Material from the Area of Khirbet el-Qôm," *HUCA* 40 (1970) 139–204.

100 The authors acknowledge that the interpretation of this inscription, particularly the interpretation of *l'šrth*, remains controversial, but agree with, e.g., Paolo Xella ("Le dieu et 'sa' déesse: l'utilisation des suffixes pronominaux avec des théonymes d'Ebla à Ugarit et à Kuntillet 'Ajrud," *UF* 27 [1995] 599–610) that the *-h* on the end of the word represents a 3ms suffix and the noun is a proper one referring to the deity Asherah.

inclusion among the limited mortuary repertoire to invoke sympathetic powers on behalf of the deceased and on behalf of their surviving family members."[101] As Hathor was petitioned for blessing and/or protection in a ritual using a sistrum, perhaps rattles in Palestine functioned in a similar ritual associated with request for protection from Asherah or another deity – perhaps to awaken or arouse the deity.[102]

A jar-shaped anthropomorphic rattle from Tell el-Far'ah (South) was also found in a tomb context.[103] Manfred Weippert incorrectly identifies this artifact as a *gravidae flask*, used to hold oil for healing the skin during pregnancy. Rejecting its identification as a rattle on the grounds that it is not like known rattles,[104] Weippert overlooks a group of rattles from Palestine shaped like dipper juglets,[105] very similar to a group of Cypriot rattles.[106] Weippert's identification of this artifact as a flask accounts for neither the sealed mouth, which would prevent it from being filled with any liquid, nor the pellets or stones

101 Bloch-Smith, *Judahite Burial Practices*, 94. Of those rattles from Iron II tomb contexts, a number were found with female figurines (e.g., Mackenzie, *Excavations at Ain Shems*, pl. XXII:16; and Eilat Mazar and Benjamin Mazar, *Excavations in the South of the Temple Mount: The Ophel of Biblical Jerusalem* Qedem 29 [Jerusalem: Hebrew Univ., 1989] 52 photo 111 and pl. 29:5). Many scholars have associated these figurines with Asherah, although this association is not certain due to the lack of distinguishing iconography on the figurines. See the discussion and bibliography in Raz Kletter, *The Judean Pillar Figurines and the Archaeology of Asherah*, BAR International Series 636 (Oxford: Tempus Reparatum, 1990) 76–77. Note, however, that Kletter concludes that the pillar figurines do represent Asherah (Kletter, *Judean Pillar Figurines*, 81).

102 Some scholars, including William G. Dever, posit that Asherah and Hathor should be equated ("Asherah, Consort of Yahweh? New Evidence from Kuntillet 'Ajrud," *BASOR* 255 [1984] 29); this suggestion builds on that of I. E. S. Edwards ("A Relief of Qudshu-Astarte-Anat in the Winchester College Collection," *JNES* 14 [1955] 49–51).

Interestingly, just as Hathor is pictured with a sistrum, Asherah is depicted holding a *plk* in her right hand in the Ugaritic myth known as "The Palace of Baal" (*CTA* 4.ii.3–4). Although the term *plk* means "spindle," in this text it may refer to the shape of the object rather than its identity. Like the gourd- or spindle-shaped objects on the Maraş stele and the Late Geometric vase scenes, it may be a rattle.

103 Macdonald, Starkey, and Harding, *Beth-Pelet II*, pl. XLVII. A round rattle from Gezer also has breasts, but no other human features (Macalister, *Excavations at Gezer*, 2:305 fig. 445.8). The latter may have had a head, made separately and attached, which is no longer extant. Macalister assumes that the head sat on the flat top of the rattle and was inserted into a small hole.

104 Manfred Weippert, "Kanaanäische ‚Gravidenflaschen' Zur Geschichte einer ägyptischen Gefäßgattung in der asiatischen ‚Provinz,'" *ZDPV* 93 (1977) 272. Othmar Keel and Christoph Uehlinger (T. H. Trapp, trans., *Gods, Goddesses, and Images of God in Ancient Israel* [Minneapolis: Fortress Press, 1998] 106) uncritically adopt Weippert's interpretation.

105 E.g., Macalister, *Excavation of Gezer*, 3:pl. LXVI, fig. 42; Olga Tufnell, *Lachish IV: The Bronze Age* (2 vols.; London: Oxford Univ. Press, 1958) pl. 28:24; and Bliss, *Mound of Many Cities*, pl. 4 no. 175.

106 E.g., Einar Gjerstad, *Studies on Prehistoric Cyprus*, Uppsala Universitets Årsskrift, Filosofi, Språkvetenskap och Historiska Vetenskaper 1 (Uppsala: A.-B. Lundequistika Bokhandeln, 1926) 173; and Myres, *Handbook of the Cesnola Collection*, 43–44 no. 387.

inside.[107] Any possible doubt that the object is a rattle was dispelled by the authors after examining the artifact in the Rockefeller Museum. Nevertheless, we acknowledge the striking similarity between this rattle and the *gravidae flasks* — particularly the breasts, the paunched abdomen suggesting pregnancy, and the apparent placement of the arms in a gesture of rubbing the abdomen. This similarity may point to a connection between this rattle and the idea of an afterlife often associated with funerary ritual in the ancient Near East.[108]

In sum, the available evidence suggests that rattles were used primarily in ritual, although not exclusively. The rattles found in domestic and public contexts support this qualification; these may have been used in musical ensembles, processions, or for dancing. Rattles such as the two found in the inner sanctum of shrine 2133 at Hazor were clearly used for official or public ritual or placed as votive offerings; these functions resemble the use of sistra in Egypt, particularly within temple contexts. The most common context of rattles, however, is within funerary ritual. But even within funerary cults, rattles could have been used in various ways: perhaps to rouse or awaken a deity, to express mourning, to drive away evil spirits, or in rituals connected with an afterlife.

Conclusions

The speculative nature of this study must be stressed again in conclusion. The Glueck rattle is an unprovenanced artifact for which there is no direct parallel. At the same time, its uniqueness as an anthropomorphic rattle, coupled with a positive test of authenticity, prompted this attempt to fit it into an iconographic tradition and to explore how and in what contexts it may have been used. We offer the following tentative conclusions.

Parallels to the combination of features on the Glueck rattle suggest that it belongs to an Iron II Edomite cultural milieu. Yet the rattle-figurine remains unique in many respects. Its size is unequaled among anthropomorphic rattles and, in fact, among rattles in general. Unlike the common ceramic rattles which could be held one in each hand, the rattle-figurine's large size dictates that it be grasped with two hands in order to be sounded. This characteristic reflects a

107 Braun (*Die Musikkultur Altisraels*, 94) makes the same observations.

108 Note that some symbols, such as the vulture in ancient Egypt, are associated with death, rebirth, and fertility (A. DeVries, *Dictionary of Symbols and Imagery* [Amsterdam: Elsevier, 1976] 490). See also Paolo Xella, "Death and the Afterlife in Canaanite and Hebrew Thought" in J. M. Sasson, ed., *Civilizations of the Ancient Near East* (4 vols.; New York: Simon and Schuster, Macmillan, 1995) 3:2059–70; Leonard Lesko, "Death and the Afterlife in Ancient Egyptian Thought," in J. M. Sasson, ed., *Civilizations of the Ancient Near East* (4 vols.; New York: Simon and Schuster, Macmillan, 1995) 3:1763–74; and JoAnn Scurlock, "Death and the Afterlife in Ancient Mesopotamian Thought" in J. M. Sasson, ed., *Civilizations of the Ancient Near East* (4 vols.; New York: Simon and Schuster, Macmillan, 1995) 3:1883–93.

more ceremonial than practical function. As further support for a ceremonial context, the hollow legs of the rattle-figurine suggest that it was displayed when not in use, perhaps on wooden pegs inserted in a stand. The design of the Edomite anthropomorphic incense stands from the shrine at 'En Ḥaẓeva also may indicate a ritual context for the Glueck rattle. These stands appealed to multiple senses, providing olfactory and visual stimuli. So too, the Glueck rattle would have appealed to multiple senses, serving as an auditory as well as visual stimulus within a cult setting. Furthermore, the use of musical instruments in Edomite cult — as it is represented at Ḥorvat Qitmit and 'En Ḥaẓeva — is demonstrated by the presence of a figurine playing a doublepipe, and clay models of tambourines and a lyre.[109]

It is significant that the female gender of the Glueck rattle parallels that of all other known anthropomorphic rattles from Palestine, Mesopotamia, and Egypt. In the Egyptian examples, the representations on the instruments are portraits of goddesses. Is the female depicted on the Glueck rattle a goddess as well? The horned deity head from Ḥorvat Qitmit, which may have been a rattle, is similar to the rattle-figurine on many counts. Might the Glueck figurine, which is clearly a rattle, also represent a deity? This question is impossible to answer with certainty, given that the Glueck rattle lacks distinctive iconographic features particular to a known deity. Nevertheless, evidence which places it in a ritual context strengthens the argument that it was formed in the image of a goddess, even if at present her identity eludes us.

109 Beck, "Catalogue of Cultic Objects," catalog nos. 118 (pp. 108–09), 192–98 (pp. 161–68) and discussion (pp. 182–83).

Katef, a Topographical Term in the Benjaminite Dialect

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As a topographical term, the Hebrew word *katef*, literally: 'shoulder,' denotes a topographical feature similar in form to a human shoulder: an elevated flat area with a slope alongside it. As used in the Bible, this term is unique in its usage and distribution.

Katef is used exclusively in descriptions of boundaries and is invariably associated with a direction perpendicular to that of the boundary. Hence this direction describes the place where the 'shoulder' breaks off. Accordingly, the phrase כתף ים כנרת קדמה (Numbers 34:11) denotes the eastern break of the Golan Heights, that is, the descent to present-day Nahr er-Ruqqād.

The term occurs nine times in the Bible, all occurrences except one in Joshua 15 and 18, and describes the boundaries of Benjamin and northern Judah. As there is no topographical justification to distinguish between Benjamin and other tribes, or to such a uniform treatment of all parts of Benjaminite territory, it follows that the term was unique to the Benjaminite dialect. The blessing of Benjamin in Deuteronomy 33:12 uses the term as a literary device.

The Human Body and Geographical Terminology in the Bible

Many of the topographical terms in the Bible are derived from the human body. The summit of a mountain is referred to as ראש ההר, lit.'the head of the mountain' (e.g., Exodus 19:20), and this head has hair, שער, as one finds in the story of Ehud (Judges 3:26): וימלט השעירתה, commonly translated as 'he escaped to Seirah' but surely referring to the high, forested or planted Hills of Ephraim (in contrast to the Jordan Valley and the desolate eastern slopes through which Ehud had ascended). The Bible mentions, at the southern end of Joshua's conquests in Canaan, ההר החלק העולה שעיר (Josh 11:17), 'the smooth mountain ascending to Seir,' where 'Seir,' though indeed a toponym, implies a type of landscape: the steep, arid ascent from the Arabah to the hills with their cover of vegetation. A 'Mount Seir' is also mentioned along the northern border of the territory of Judah (Josh 15:10), and it is not far from הר יערים, 'Mount Jearim,' lit. 'forested mountain.' The root probably derives from the likeness of the vegetal cover around the summit, in contrast to the smoother slopes, to the hair on a human head. (In the Mishnah, too, the word שער is used in the sense of the leafy branches of a tree, as in *Kil.* 4:9 and elsewhere).[1]

1 As noted by Rashi in his comment on השעירתה in Judg 3:26.

In the middle part of the human body are the צלעות, ribs, which are arranged vertically down the body. This image is applied to topography as well, as in 2 Samuel 16:13: ושמעי הולך בצלע ההר הלוך וקלל, 'Shimei walked alongside on the slope of the hill, walking and insulting.' The word טבור, navel, is probably being used similarly in the sense of 'center' in the verse הנה עם ירדים מעם טבור הארץ (Judg 9:37), '. . . a group of people is marching down from the center of the land.'[2]

Even smaller details of the human face are used in topographical definitions. One example is עין, eye, used frequently in Genesis (16:7 in the story of Hagar; six times in the narrative of Abraham's servant in chapter 24). Examination of these chapters indicates that the term denotes an artificially excavated well: על העין בדרך שור, 'the עין on the road to Shur,' as against על כן קרא לבאר באר לחי ראי, 'therefore the *well* was called Beer-lahai-roi.' Similarly: ותרד העינה in 24:16 is followed in v. 20 by ותרץ עוד אל הבאר לשאב, 'she ran back to the *well* to draw.' The basis of the imagery is the similarity to the eye in the human face: a deep, round opening from which water may flow. The word לשון, tongue, a long, wet projection from the body, also finds its use in biblical geographical terminology, denoting an elongated body of water projecting into the land (not as used today in modern Hebrew following the Arabic for the eastern peninsula of the Dead Sea; see Josh 15:2; Isaiah 11:15). The phrase שפת הנחל, literally meaning 'lip of

2 The other biblical occurrence of the phrase, ישבי על טבור הארץ (Ezek 38:12), is already in an abstract, metaphorical sense.

In actual fact, one must take into consideration the fact that טבור = navel occurs not in biblical Hebrew but in rabbinic Hebrew and Aramaic, where it is spelled, according to most reliable evidence, טיבור (the biblical word for navel is שרר). Nevertheless, it is not inconceivable that the semantic background of the biblical geographical term should be explained on the basis of rabbinic Hebrew and Aramaic. As to the difference in vocalization between biblical טָבור and the rabbinic טיבור (E. Ben-Yehuda, *A Complete Dictionary of Ancient and Modern Hebrew* [8 vols.; New York-London: Thomas Yoseloff, 1959] 3:1836; H. Yalon, *Introduction to the Vocalization of the Mishna* [Heb.] [Jerusalem: Bialik Institute, 1964] 29–30), it is noteworthy that the difference is not common to all traditions; the Babylonian tradition pronounced the word, both in the Bible and in rabbinic sources, with a *ḥireq*, whereas other traditions — from Europe and also from Yemen — pronounced it in both contexts with a *pataḥ* (see I. Yeivin, *The Hebrew Language Tradition as Reflected in the Babylonian Vocalization* [Heb.] [Jerusalem: The Academy of the Hebrew Language, 1985] 957).

Another complication is the existence near Shechem — the region in which the events of Judges 9 took place — of a rounded hill named Ǧabal Ṭabūr, which some scholars have suggested identifying with טבור הארץ (see H. Eshel and Z. Ehrlich, "Abimelech's First Battle with the Lords of Shechem" [Heb.], *Tarbiz* 58 [1989] 111–16). However, a phrase like טבור הארץ can hardly be a proper name (see my article, "Place Names of Two Words in the Arabic Nomenclature and in the Bible" [Heb.], *Proceedings of the Tenth World Congress of Jewish Studies* [Jerusalem: Magnes, 1990] 21–28). If there is any connection between this hill and the story of Abimelech's war at Shechem, it must be more complex. The plain meaning of the verse Judg 9:37 is that it is referring to a general topographical feature, not to a proper name.

the wadi,' denotes the edge of the plain, from which one descends toward the wet place, and not necessarily the point at which the dry land meets the water (ערוער אשר על שפת נחל ארנון, 'Aroer on the lip of the Wadi Arnon'; Josh 12:2 etc.; identified with ʿArāʿir, on the edge of the plateau north of the wadi), just as in the human face. This imagery is further exploited in the idiom שן הסלע, literally 'tooth of the rock,' meaning a rocky crag on the way down to the riverbed (1 Sam 14:4).

The biblical term כתף may be explained on the basis of this imagery. In the spirit of the foregoing conception, it is almost self-evident that כתף, literally 'shoulder,' denotes an elevated flat area with a slope alongside it.[3] Let me say from the outset that I am not interested here in the plain meaning of the word as 'shoulder' in human or animal and in metaphors derived on that ground. Also outside the scope of this discussion is the use of the word in an architectural context, as in the description of the tabernacle in the desert or of the Temple; in that context it has the meaning of 'side' (like צלע, פאה and ירך). We are exclusively concerned with the term in a topographical context.[4]

Katef always Associated with Direction; Significance

The topographical term *katef* occurs nine times in the Bible: once in the description of 'the Land of Canaan with its boundaries' in Numbers 34, and eight times in the boundaries of the tribal territories in the book of Joshua. A comparative survey of these occurrences reveals that all nine share a common feature: the word never appears on its own, but is always associated with a direction, north or south in the eight cases in the book of Joshua, and east in Numbers 34. It seems plausible that the direction is essential to the definition of the term. Evidently, the important point in the biblical use of the term *katef* is the presence of a point at which an elevated flat area or plateau breaks off.

3 The slope is sometimes, but not always, high and steep, as will be clear from the example cited below. It is worth mentioning that כתף in this sense has a parallel in present-day Arabic nomenclature: a neighborhood in the city of Jericho, located on a level area above the north bank of lower Wadi Qelt (which is very shallow compared with the surrounding terrain) is known today to the townspeople as Kitʿf al-Wād.

4 One of the tomb inscriptions in the Kidron Valley includes the words חדר בכתף הצר. N. Avigad (*IEJ* 5 [1955] 165–66) reads הַצַּר, interpreting the whole phrase as 'a chamber in the slope of the cliff.' However, more recent authors prefer the reading [ח]הַצַּר, which is confirmed by comparative linguistics and Nabatean grave inscriptions (cf. D. Ussishkin, 'צריח,' *Encyclopaedia Biblica* 6 [Jerusalem: Bialik Institute, 1971] 772; Sh. Aḥituv, *Handbook of Ancient Hebrew Inscriptions* [Heb.] [Jerusalem: Bialik Institute, 1992] 29–30). According to the latter, the inscription should be translated 'a chamber beside the grave,' so that this case belongs to the 'architectural' group rather than the topographical.

Note that in all eight occurrences in Joshua the text is describing lines running east-west, and the directions associated with the *katef* are north and south; while in Numbers 34, where the line runs north-south, the direction of the *katef* is קדמה, east.[5]

In some of these cases it is possible to pinpoint the topographical feature in question, enabling us better to understand the significance of the direction. For example:

1. Josh 15:10: ועבר אל כתף הר יערים מצפונה היא כסלון, '[the boundary] passed north of the *katef* of Mount Jearim — that is, Chesalon.' Chesalon has been identified with the ancient mound of the now abandoned village of Kasle, in the north of the modern moshav of Kesalon (map reference 154 132).[6] The salient feature of the region is a moderate hilly ridge, which suddenly breaks off to the north, at Kasle, descending steeply to Nahal Kesalon. The text clearly indicates that the boundary is to cut across the northern breaking point of the ridge, at Chesalon.

2. Josh 18:19: ועבר אל כתף מול הערבה צפונה וירד הערבתה, 'It continued northward to the *katef* alongside the Arabah and descended into the Arabah.'[7] First, one should note that in biblical prose הערבה, 'the Arabah,' always has the definite article,[8] referring to the entire stretch of flat terrain running along the Rift Valley from south to north. In the south, see Deut 2:8: 'by way of the road of the Arabah, by way of Elath and Ezion-Geber.' In the central region, see, e.g., Deut 3:17: 'And the Arabah and the Jordan with its borders, from Kinneret down to the sea of the Arabah, the Salt Sea.' And in the north, see Josh 11:2: 'And to the other kings in the north — in the hill country, in the Arabah, south of Kinnerot,

5 Contrary to A. W. Schwarzenbach, *Die geographische Terminologie im Hebräischen des Alten Testamentes* (Leiden: E. J. Brill, 1954) 18, there seems to be no difference of content in our context between מנגב and נגבה. Witness the two descriptions of the same point as כתף היבוסי מנגב in 15:8 and כתף היבוסי נגבה in 18:16. Neither do I agree with Schwarzenbach's classification of different types of כתף.

6 Y. Aharoni and A. F. Rainey, ed., *The Land of the Bible. A Historical Geography* (Philadelphia: Westminster Press, 1979) 255–56.

7 Most modern commentators prefer the Septuagint version here, which reads Βαιθαραβα instead of מול הערבה. This reading necessarily implies that not only the word מול of the MT is a copyist's error, but also the subsequent וירד הערבתה (cf., for example, M. Noth, *Das Buch Josua* [Tübingen: J. C. B. Mohr - P. Siebeck, 1938] 82). To my mind, a preferable explanation is that the Septuagint version here was influenced by the parallel in 15:6.

8 The word is generally not determined in biblical poetry, where it denotes arid land, wilderness: . . . בארץ ערבה ושוחה, 'A land of deserts and pits, a land of drought and darkness, a land no man had traversed, where no human being had dwelt' (Jer 2:6); 'The arid desert shall be glad, the ערבה shall rejoice . . .' (Isa 35:1). Sometimes the emphasis is on flat arid landscape: אשר שמתי ערבה . . . ביתו, 'Whose home I have made the wilderness, the salt land his dwelling place' (Job 39:6). See F. Brown, S. R. Driver and C. A. Briggs, *A Hebrew and English Lexicon of the Old Testament* (Oxford: Clarendon, 1906) 787.

and in the lowlands. . . .' Other definite forms (being in the construct state with a proper noun) are ערבות הירדן, ערבות יריחו and ערבות מואב, these too denoting parts of *the* Arabah. In the center of the Arabah is ים הערבה, 'the Sea of the Arabah,' that is, the Dead Sea — or Salt Sea as it is called in the Bible. The כתף מול הערבה in our verse in Joshua 18 should be a *katef* associated with the Arabah and therefore named for it. The text is concerned with its *northern* breaking point. This analysis leads to the long vertical cliff that runs almost the entire length of the Dead Sea, known nowadays as the 'Fault Escarpment.' This seems a likely candidate for כתף מול הערבה. The northern break occurs at the outlet of Nahal Og (Wadi Mukallik), just above the present-day kibbutz of Almog. From this point the boundary descends to the Arabah itself. The line as drawn here fits the overall logic of the boundary, since the eastern part of Benjamin centers around Wadi Qelt and its tributaries.

3. Josh 18:12: ועלה הגבול אל כתף יריחו מצפון ועלה בהר ימה והיו תצאתיו מדברה בית און, 'the boundary ascended to the *katef* of Jericho to the north, ascended westward into the hill country and ran on to the Wilderness of Beth-Aven.' There are no intermediate directions in the Bible, so that northeast may also be referred to as 'north.' A good candidate for the *katef* of Jericho is the Quruntul ridge rising above ancient Jericho to the west.[9] This ridge indeed has a plateau structure: cliff-like walls and a broad, flat summit. It breaks off toward the northeast at Wadi Nwēᶜmeh. This is most probably the meaning of the biblical text. Here, too, the description is in good agreement with the continuation of the line and the parallel account in Joshua 16.

Ancient, Classical and Modern Interpretation of *Katef*

Many of the ancient translations rendered *katef* as direction, side, assigning the term no topographical sense. This approach was evidently based on the meaning of the term, as already mentioned, in all its occurrences in an architectural context (in parallel to פאה, ירך, צלע).

Thus, Targum Jonathan to the Prophets translates every *katef* as עיבר; a similar meaning is apparently intended by Onqelos in Numbers 34: על כיף ים גניסר,[10]

9 My identification of כתף יריחו with the Quruntul ridge follows the view of my late father, Yehudah Elitzur, in an article, "The Boundaries of the Territory of Ephraim," in Y. Elitzur, *Israel and the Bible* (Heb.) (Ramat-Gan: Bar-Ilan Univ. Publishing House, 1999) 333.

10 Onqelos's intention is not clear, since the word כיף in his Aramaic dialect combines two lexemes, as may be concluded from other Aramaic dialects: one has the connotation of 'a rock' and is familiar from all Aramaic dialects; the other is the regular translation of שפת הים, שפת הנחל (the cognate in Palestinian Aramaic is גיף). The second meaning also represents a topographical object higher than its surroundings; Onqelos, following biblical Hebrew, distinguishes between חוף הים, translated ספר ימא, and שפת הים, translated as כיף ימא.

Targum Neofiti to Numbers 34 (סיפורי ימה דגניסר, that is, 'the edge of the Sea of Gennesaret') and Pseudo-Jonathan ibid. (תחום ימא דגניסר). The Pshitta, too, always translates *katef* as סטרא, 'side.' The Vulgate sometimes passes over the word entirely; otherwise it uses the word *latus*, 'side, wing,' rendering על כתף ים כנרת קדמה here as *contra orientem ad mare Chenereth*. Saadya Gaon's Arabic translation here reads אלי גאנב בחר גניסר, 'to the side of the Sea of Gennesaret.'

Such is also the general tendency of Rashi, who explains these verses as intended primarily to point the direction: 'to the north,' 'from the south,' etc., in order to clarify which cities are within the boundary and which outside. Thus, for example, he explains אל כתף היבוסי מנגב (Josh 15:8) as follows: 'Jerusalem is situated outside the thread [boundary line] and is not in the territory of Judah but in that of Benjamin, which is to the north of Judah' (and R. Joseph Kara explains the phrase along the same lines). The classic King James Version also renders the word as 'side' (except in the case of כתף היבוסי in Josh 15, which is the only exception, being translated 'slope'; but כתף היבוסי in Josh 18 is again rendered as 'side'!). In modern exegesis I have found some consistent advocates of this approach, such as Schwarzenbach[11] following Dhorme, and Simons, who generally passes over the word *katef*, as in 'the line leads to the Sea of Kinnereth.' In another case, he explains that the expression אל-כתף essentially means 'beside, laterally of.'[12]

Contrary to all those cited up to this point, the Septuagint assigns the term *katef* a topographical sense. The Septuagint translates *katef* as νώτον, meaning a broad expanse, generally the summit of a ridge or spur. Most modern commentators have taken this approach, but disregard the significance of the direction as an integral part of the term. Thus, for example, modern authors explicate a phrase like כתף יריחו מצפון in the sense of the *katef* north of Jericho.[13] Some explain it as implying the line encircling the *katef* on the north,[14] while others ignore the direction entirely.[15] There are also authors who waver between the two possibilities.[16]

11 See above, n. 5.

12 J. Simons, *The Geographical and Topographical Texts of the Old Testament* (Leiden: E. J. Brill, 1959) 103, 141, 170.

13 See G. B. Gray, *A Critical and Exegetical Commentary on Numbers* (ICC; Edinburgh: T. & T. Clark, 1986 [1903]) 462; R. G. Boling, Joshua (AB; New York: Doubleday, 1982) 361, 369; Aharoni and Rainey, *The Land of the Bible*, (above n. 6).

14 Y. Kaufmann, *The Book of Joshua* (Heb.) (Jerusalem: Kiryat-Sepher, 1976) 180–82.

15 G. A. Cooke, *The Book of Joshua* (Cambridge: Cambridge Univ. Press, 1918) 139–40, 168–70.

16 Such as Noth (above, n. 7); compare his interpretation of כתף היבוסי (p. 60) and כתף הר יערים (p. 63) as against כתף עקרון (p. 61) and כתף הר יערים (p. 81); ʿiššal-ġurāb, which he suggests as a possible identification of כתף יריחו, was the name of the low ridge north of Wadi Nwēʿme, cf. G. A. Smith, *The Historical Geography of the Holy Land* (Jerusalem: Ariel, n.d. [25th ed.; London: Hodder and Stoughton, 1931]) map 5. Similarly, see Y. Kiel, *The Book of Joshua* (Heb.) (Jerusalem: Mossad Harav

I have found one modern author who, in principle, adopts a line similar to my understanding as outlined in the previous section with regard to the significance of the direction in the term: Zechariah Kallai, in a paper dedicated to this very subject and in his *Historical Geography*.[17] Kallai's explanation in his book is particularly lucid and worth quoting:

> The shoulder is the slope, or the edge, of the spur of the site or the geographical feature mentioned. 'The shoulder of the Jebusite southward' is the slope of Jebus which faces southward, and not the slope opposite Jebus, and similarly, 'The shoulder of Ekron northward' is the slope of the hill of Ekron or the spur on which Ekron is situated, facing towards the north, and not the hills to the north of Ekron.

One point on which I take exception to Kallai is that, to my mind, it is not necessary for the settlement itself to be situated on the 'shoulder'; the term is more appropriate to a territorial geographical unit, as Kallai himself indicates. Such terms as כתף מול הערבה and כתף ים כנרת seem to imply as much quite clearly. By emphasizing this point, we avoid the difficulty encountered by Kallai when he is forced to explain that כתף יריחו מצפון refers to the slope of the ancient mound of Jericho, whose area is 40,000 square meters. Is it conceivable that the inter-tribal boundary would pass between the mound of the ruined city and the fields bordering it to the north? And what importance could be attached to the mound from the standpoint of physical features 'on the ground,' as one would expect in the delineation of a boundary between tribes? To my mind, it seems far more likely that the reference here is to the great topographical feature rising above Jericho, namely, the Quruntul range, along whose northeastern cliffs passes Wadi Nwē^{c}meh-Makūk, which leads to Bethel. Similarly, the phrase כתף היבוסי presumably refers to the entire hilly massif and not to the city alone.

כתף ים כנרת קדמה

As mentioned previously, the only occurrence of *katef* outside the book of Joshua is כתף ים כנרת קדמה, in the eastern line of 'the Land of Canaan with its boundaries' in Numbers 34. However, it is not insignificant that, although the text is not in the book of Joshua, its world and spirit are close to those of

Kook, 1970) 131–33, 166–67, 182; on 131, Kiel simultaneously gives two contradictory interpretations of the phrase!

17 Z. Kallai, "Kateph – כתף," *IEJ* 15 (1965) 177–79; idem, *Historical Geography of the Bible* (Jerusalem-Leiden: Magnes-Brill, 1986) 128. I am indebted to Professor Kallai who, without agreeing with all my conclusions, devoted time to discussing the issue with me and helped to locate some of the sources.

the latter. Numbers 34 is concerned with preparations for entering the Land of Canaan, while the subject of Joshua is the conquest and distribution of the land. The land described in Numbers 34 and briefly in Num 13:21 is precisely the territory with regard to which the achievements of Joshua's generation are measured in Joshua 13. The southern border of Judah in Josh 15:1–4 is identical with the southern border of Canaan in Num 34:3–5. Joshua, Eleazar, Caleb and the tribal chieftains listed in Numbers 34 lead the settlement of the land in the book of Joshua. Above all, the geographical terminology of both sources is similar, and there are in fact expressions unique to both. At any rate, the style is essentially the same.

The eastern border of 'the Land of Canaan with its boundaries' begins in the northeast at Hazar-Enan:

> For your eastern boundary you shall draw a line from Hazar-Enan to Shepham. From Shepham the boundary shall descend to Riblah on the east side of Ain; from there the boundary shall continue downward and abut on כתף ים כנרת קדמה. The boundary shall then descend along the Jordan and terminate at the Salt Sea.

In contrast to the universally familiar Jordan and Salt ('Dead') Sea, the three points before the *katef* of Lake Kinneret have only hypothetical identifications. Nevertheless, we have a basis for a general conjecture as to the geographical regions traversed by the line, as follows:

1. The point before Hazar-Enan on the northern boundary, Zedad, has been identified fairly positively at a village which has preserved the rare old name with some precision: Ṣadad, 110 km northeast of Damascus. Presumably, Hazar-Enan lies more or less to the east of Ṣadad.

2. Ezekiel 47 and 48 contain a prophetic description of the future boundaries of the tribes of Israel. As usual in the book of Ezekiel, the text is largely obscure, and I am surely not going to tackle Ezekiel's prophecies here. For our purposes, though, we can assert that the link between his boundaries and those of Numbers 34 seems quite obvious: Lebo-Hamath and Zedad in the north, the Eastern Sea in the southeast, 'the waters of Meriboth-Kadesh, along the Wadi [of Egypt and] the Great Sea' in the south. Now Ezekiel also refers to 'Hazar-Enon to the north of the territory of Damascus' and 'as the eastern limit a line between Hauran and Damascus.'

What then, is כתף ים כנרת קדמה in Numbers 34? First of all, our previous inquiries oblige us to reject any explanation that does not assign *katef* any topographical significance. Translations and commentaries suggesting the eastern shore of Lake Kinneret, the 'protrusion' (if such exists) in the northeast of the lake, and so on, are inappropriate to the concept as outlined above.

Moreover, on the basis of the eight occurrences in the book of Joshua, one can be quite confident that the direction, קדמה, 'eastward,' is an integral part of the concept (and, as one might expect, the direction associated with a line running north-south should indeed be east or west). We cannot, therefore, agree with commentaries explaining the phrase as meaning a *katef* to the east of Lake Kinneret.[18]

What we are looking for, then, on the basis of the foregoing sections, is an elevated plain or plateau that might fit the appellation 'the *katef* of the Sea of Kinneret,' whose eastern edge is to be identified as 'the *katef* of the Sea of Kinneret to the east.'

It is not very likely that 'the *katef* of the Sea of Kinneret' is the Poriyah Ridge or the Arbel Cliff, first, because that would place the western shore of Lake Kinneret outside 'the Land of Canaan with its boundaries,' a hardly conceivable thesis, as the Bible explicitly states that Hammath, Rakkath and Kinneret, all on the Kinneret shore, were fortified towns of the tribe of Naphtali (Josh 19:35). Moreover, the fact that the boundary line comes from territories to the northeast of Damascus implies that the line would most probably run east, not west, of Lake Kinneret.

The very name כתף ים כנרת seems to imply a topographical object defined by the whole of Lake Kinneret, not just on a ridge adjoining part of the lake, for in that case it would have been named for a certain city and not for the whole lake. Compare this situation with the examples examined from Joshua. As against כתף היבוסי, כתף עקרון and כתף ירוחו, named for cities, כתף מול הערבה should be a plain with a prominent break, stretching for its whole length along the Arabah. We therefore proposed to identify it with the Fault Escarpment along the Dead Sea, and to interpret כתף מול הערבה צפונה as the northern end of this escarpment, at Nahal Og.

A similar interpretation should be found, therefore, for כתף ים כנרת. The best candidate is the *Golan Heights*, an elevated plateau with steep slopes down to its surroundings, adjoining the Lake of Kinneret for the whole length of the latter. What, then, is קדמה? Based on the results of our inquiries in the other cases, one would have to say that this is the eastern break of the Golan Heights, that is, the descent to present–day Nahr er-Ruqqād.

The geographical interpretation proposed here has historical implications. It indicates that the whole Golan region, 'the border of the Geshurites and the Maacathites,' usually considered part of the territory of the half-tribe of Manasseh in Eastern Transjordan, could be understood otherwise in other

18 I find it surprising that Kallai, who so aptly elucidated the meaning of the direction associated with the occurrences of *katef* in the book of Joshua, abandoned his own conclusion and defined the verse in Numbers 34 as the only exception, to be explained as the *katef* to the east of Lake Kinneret (*IEJ* 15 [1965]: 178).

biblical passages as attached to the western side of the Jordan. This is a broad subject, requiring a detailed discussion beyond the scope of this article. For our present purposes, I would only comment that there are other biblical sources supporting such a view.[19]

Katef — Exceptional Distribution of the Term

Analysis of the nine occurrences of *katef* in the Bible reveals an unusual distribution: all except one occur in just two chapters of the book of Joshua, and all of these denote features in a limited geographical region, namely, the boundaries of the tribe of Benjamin and the northern boundary of Judah. Three of the eight are mentioned in the description of the northern boundary of Judah (Josh 15:8–11), two in the northern boundary of Benjamin (18:12–13) and three in its southern boundary (vv.16–19). Only one occurrence lies outside this textual and geographical region, and that is כתף ים כנרת in Numbers 34.

What possible reason could there be for this curious distribution of a topographical term? It is surely not likely that this particular topographical feature appears only here and not elsewhere. Moreover, the region in which these features are mentioned contains a variety of quite different landscapes: no similarity exists between כתף בית חגלה in the plain of the Jordan and כתף לוזה in the high hill country, and both these differ from כתף עקרון in the Shephelah.

It would appear that the solution must be connected with a *dialect of Hebrew*. It is well known that in every language and period specific linguistic features and habits could be confined to specific geographical regions. The best known example in the area of biblical Hebrew is *shibbolet-sibbolet* (Judg 12:6). In the

19 1 Chr 2:21–23 preserves a tradition associating this region explicitly with the tribe of Judah. On that basis the words ובי֫הודה הירדן מזרח השמש, in the description of the territory of Naphtali in Josh 19:34, are readily understood. This interpretation also provides a direct explanation of another obscure verse, in the book of Kings, which many commentators have either 'rearranged' or explained with difficulty: '. . . how [Jeroboam] fought and recovered Damascus and Hamath for Judah in Israel' (2 Kgs 14:28). The phrase 'Judah in Israel,' if taken at face value, without emending either spelling or syntax, refers to a part of the kingdom of Israel, the northern part of Transjordan, where the inhabitants belong to the tribe of *Judah*. It would appear, then, that this district had a rather unclear status in regard to the distribution of the land to the tribes, just as the descendants of Jair were of unclear lineage. Hence the whole of the Golan Heights, down to Nahr er-Ruqqād, was included in 'the Land of Canaan with its boundaries' in Numbers 34. This understanding of Joshua 19:34 was first suggested by K. von Raumer, *Palästina* (Leipzig: F.A. Brockhaus, 1835) 295. He was followed by H. Hildesheimer, "Beiträge zur Erklärung einer geographischer Bibelstellen," in *Jahres-Bericht des Rabbiner-Seminars zu Berlin* (1909–1910) 1–25, who added the explanation of 2 Kgs 14:28 (esp. ibid. 19–23). For more recent commentators who have adopted these theories, see M. H. Segal, *Torah Nevi'im u-Ketuvim* (Heb.) (4 vols.; Tel Aviv: Dvir, 1960) 2, Joshua: 38, Kings: 93; Y. Elitzur and Y. A. Seidman, *The Book of Joshua* (Heb.) (Jerusalem: Rubin Mass, 1953) 89; Kiel, *The Book of Joshua* (above n.16) 182.

northern kingdom of Israel is also common in contrast to the phrasing of which replaces only one term. In the Lower Calendar (11 ff.) an age and the whole period [illegible] in the Hebrew version is equivalent to [illegible] in the Arad version. In the same connection, scholars have pointed to the text in Amos 6:2 [illegible] and to the Ketef [illegible] text as a [illegible] rather than [illegible] two variations of living space in the city of Samaria.[10]

It seems likely that Ketef was a word specifically used in the land of Benjamin. It should be noted, though, that even when the term refers to boundaries common to Benjamin and the neighboring tribes of Judah and Ephraim, the word Ketef in chapter 18 generally occurs in the descriptive relating to Benjamin, not to where the same line is described from the other side in chapters 15 and 16. Nevertheless, the term is not entirely confined to Benjamin: three of the occurrences are in the account of northern Judah, two in the west, beyond the common boundary with Benjamin [illegible] and [illegible], and one on the common boundary itself [illegible]. The conclusion is that the term was normally used by the Benjaminites, but was partly in use among their neighbors in northern Judah.

Against this background, the blessing of the tribe of Benjamin becomes particularly significant. "Of Benjamin he said: Beloved of the Lord, he rests securely beside Him, ever does He protect him, [illegible] = as he dwells between his shoulders." (Deut 33:12). The last metaphor/idiom expresses regard for the tribe of Benjamin, incorporating a linguistic usage typical of that tribe's dialect.

Such literary phenomena are not unknown in the Bible. Thus for example in the account of events in Aram Naharaim in the book of Genesis the Aramaic words [illegible] appear prominently. Similarly the word [illegible] occurs in connection with Egypt as does the idiom [illegible], the best of the land of Egypt (Gen 45:18), which is probably a calque of an Egyptian idiom. In the Samuel pronouncements (Isa 21:11-12) we find such expressions as [illegible] and [illegible], and in the Isaiah Pronouncements — [illegible].[11]

10 K. A. Cohen, A Critical and Exegetical Commentary on the Book of Amos (London: T&T Clark, 1929), 111; Y. Aharoni, Hebrew Ostraca and their History (Heb.) (Jerusalem: Kiryat Sefer, 1974), 34 ff.; Aharoni and D. N. Freedman, Arad, 4 ff. (New York: Doubleday, 1981), 191 f.; Y. Maoz, Studies in Hebrew Poetry (Heb.) (Jerusalem: Magnes, 1997), 83.

11 See for example "Egypt" = Egypt in the Bible" (Heb.) (Encyclopaedia Biblica 5 (Jerusalem: Bialik Institute, 1968), 364 ff.); A. Hurvitz, "The Chronological Significance of Aramaisms in Biblical Hebrew" (IEJ 18, 1968), 234-40; idem, "Hebrew and Aramaic in the Biblical Period – The Problem of Aramaisms in the Linguistic Research of the Hebrew Bible" in M. Bar-Asher et al., Studies in Hebrew and Jewish Languages Presented to Shelomo Morag (Heb.) (Jerusalem: Bialik Institute and the Hebrew Univ., 1992), 77 ff.; S. Kaufman, A History of the Hebrew Language, S. Katsher ed. (Jerusalem: Magnes, 2014), 9 ff.

Conclusions

1. *Katef* as a topographical term is one of a group of such terms derived from the human body, meaning, by analogy with the human shoulder, a flat area higher than its surroundings.

2. *Katef* occurs in the Bible only in descriptions of boundaries, always associated with a direction; the direction is always perpendicular to the boundary line being described.

3. כתף מול הערבה צפונה denotes the Fault Escarpment along the Dead Sea where it breaks off to the north – Nahal Og; כתף ים כנרת קדמה denotes the Golan Heights where they fall down to Wadi er-Ruqqād.

4. The term appears with considerable frequency along the tribal boundary lines of Benjamin and northern Judah in the book of Joshua and is almost unknown otherwise. It was most probably a term used exclusively in the Benjaminite dialect. The use of *katef* in Benjamin's blessing in Deuteronomy 33 is a literary device familiar from other biblical passages.

Miriam, Aaron and Moses

Sibling Rivalry

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According to Numbers 26:57–59, Miriam and Aaron are the siblings of Moses. In the pericope studied here (Num 11:35–16:16) Moses is challenged by Miriam and Aaron both with regard to his marital choice and to his superior prophetic status. The present article attempts to explicate some of the philological and thematic difficulties in the text. In the light of the archaeological data currently available, which demonstrate that none of the narrative of the Torah is historical, the study suggests that Num 11:35–16:16 is addressed to a Jewish audience of the Achaemenid Persian period; a period in which a written Torah, an innovation, was in competition with oral prophecy, an older traditional form of divine revelation. By composing a tale in which YHWH himself affirmed the superiority of his communications to Moses over his communications to other prophets, the author of the pericope was, in fact, claiming that Scripture, which contained the divine word in its clearest form, was far more reliable than prophecy orally delivered.

The Pentateuch portrays Moses (and God) as regularly beset by opposition. This is especially true with regard to the Book of Numbers chapters 11–21, 25.[1] In the pericope studied in this paper Moses is challenged by Miriam and Aaron, who, according to the earliest level of the tradition (Micah 6:3) are his co-leaders in the exodus from Egypt, and his siblings according to Num 26:57–59. The present study attempts to explicate some of the philological and thematic difficulties present in the text, and to clarify some of the theological and ideological concerns of its author, and of the ancient audience. Before proceeding further I wish to clarify the general approach to the narratives of the Torah that will be taken in this study.[2]

It is no exaggeration to say that the Arab-Israeli Six-Day War (1967), and later the peace treaty between Israel and Jordan, had a revolutionary effect on the direction of biblical studies. For the previous thirty to forty years much of

1 See G. Coats, *Rebellion in the Wilderness* (Nashville: Abingdon, 1968). Coats (261–64) deals with the pericope studied here in an appendix because he considers it not to be part of the murmuring tradition.

2 An earlier version of this article was presented on June 12, 2000 as a Hebrew lecture to a symposium sponsored by the Department of Bible at the Hebrew University in Jerusalem. It is my pleasant duty to thank Dr. Israel Knohl and Professor Alexander Rofé for their invitation to the symposium, and the attendees for their extremely helpful comments.

biblical scholarship had been heavily influenced by the "biblical archaeology"[3] school associated in the main with such American scholars as William Foxwell Albright,[4] and his disciples G. Ernest Wright,[5] John Bright,[6] David Noel Freedman[7] and Frank Cross.[8] To a lesser extent we should include Ephraim A. Speiser whose studies on the patriarchal period, and especially his commentary on Genesis,[9] continue to influence contemporary scholarship.[10] These scholars to whose name we may add that of Benjamin Mazar[11] (Maisler)[12] and his students in Israel, who employed the results of archaeology to substantiate the general historicity of the biblical accounts of Israel's origins.[13] Outside of the biblical archaeology movement, but congenial with regard to its conclusions, the Israeli scholar

3 For a more detailed treatment of the rise and subsequent decline of the "biblical archaeology" school see S. David Sperling, *The Original Torah: The Political Intent of the Bible's Writers* (New York: New York Univ. Press, 1998) 17–25 and the literature cited there.

4 For Albright's vast bibliography see D. N. Freedman in G. E. Wright, ed., *The Bible and the Ancient Near East Essays in Honor of William Foxwell Albright* (Garden City, N.Y.: Anchor, 1965) 488–524; *ErIsr* 9 (1969) 1–5; D. N. Freedman, R. MacDonald and D. Matson, *The Published Works of William Foxwell Albright: A Comprehensive Bibliography* (Cambridge, Mass.: AASOR, 1975); See further, P. Machinist, "William Foxwell Albright: The Man and His Work," in J. Cooper and G. M. Schwartz, eds., *The Study of the Ancient Near East in the Twenty-First Century. The William Foxwell Albright Centennial Conference* (Winona Lake, Ind.: Eisenbrauns, 1996) 385–403; B. Long, *Planting and Reaping Albright: Politics, Ideology and Interpreting the Bible* (University Park, Pa.: Pennsylvania State Univ., 1997).

5 See especially G. Ernest Wright, *Biblical Archaeology* (Philadephia: Westminster, 1957).

6 J. Bright, *A History of Israel* (1st ed.; Philadelphia: Westminster, 1958). Between the late 1950's and the late 1970's Bright's *History* in its various editions was probably the most influential work of the school. The book was required reading in virtually any (non-fundamentalist) seminary or university course on the history of the biblical period.

7 Freedman, not himself an archaeologist, has regularly employed the models and discoveries of archaeology in his own work. See especially D. N. Freedman, "Pottery, Poetry, and Prophecy," *JBL* 96 (1977) 5–26. The essay is reprinted in D. N. Freedman, *Pottery, Poetry, and Prophecy* (Winona Lake: Eisenbrauns, 1980) 1–22; On Freedman's method in general see the reviews of *Commitment* by R. E. Friedman in *JQR* 88 (1998) 259–61; S. David Sperling in *HS* 39 (1998) 7–13.

8 See e.g., F. M. Cross, *Canaanite Myth and Hebrew Epic: Essays in the History of the Religion of Israel* (Cambridge, Mass.: Harvard Univ., 1973). For Cross' bibliography see *ErIsr* 26 (1999) xiii–xxiv.

9 E. Speiser, *Genesis*, AB (Garden City, N.Y.: Doubleday, 1964).

10 See e.g., G. Rendsburg, *The Redaction of Genesis* (Winona Lake: Eisenbrauns, 1986); N. Sarna, *Genesis* (Philadelphia: Jewish Publication Society, 1989); idem, *Exodus* (Philadelphia: Jewish Publication Society, 1991).

11 See S. Ahituv, ed., *Benjamin Mazar Biblical Israel: State and People* (Jerusalem: Magnes, 1982).

12 Mazar may be accounted a disciple of Albright.

13 It would be amiss not to include the Egyptologist K. A. Kitchen and the Semiticist A. R. Millard among those scholars of the ancient near eastern world who explicitly employ some of their researches to substantiate the general historicity of the biblical accounts. See e.g., K. Kitchen, *Ancient Orient and Old Testament* (Chicago: Inter-Varsity, 1966); idem, *The Bible in its World: The Bible and Archaeology Today* (Downer's Grove, Ill.: InterVarsity, 1978); idem, *Pharaoh Triumphant: The Life and Times of Ramesses II King of Egypt* (Warminster: Aris and Phillips, 1982); idem, "The Patriarchal Age: Myth or History," *BAR* 21/2 (1995) 48–57, 88, 90, 92, 94–5; A. R. Millard, "Methods of

Yehezkel Kaufmann attempted to refute some of the central hypotheses of classical biblical criticism, especially of the German variety. Kaufmann did much to encourage the view, especially in Israeli and Jewish[14] circles, that the biblical portrayals of the origins of Israel had a strong grounding in historical fact.

But as G. E. Wright acknowledged in 1957, the potential of archaeology to verify the biblical record carried with it the "risk"[15] that archaeology could equally falsify that record. In fact, both potentials have been realized. Much material in the Prophets and Hagiographa has been substantiated and supplemented by extra-biblical sources unearthed by archaeologists.[16] With regard to the Hexateuch, however, the opposite has proved true. At the present time it seems clear that the fundamental traditions of enslavement in Egypt, exodus therefrom,[17] the desert wandering and the armed conquest of Canaan are not "historical" in the accepted sense of the term. As such, we can no longer approach these traditions the way John Bright, for example, approached the biblical accounts of enslavement and Exodus: "It is not the sort of tradition any people would invent."[18] Rather, now that we know that the traditions were invented, we need to ask why they were and with what goals in mind. In a recent book I argued that although the narratives of the Pentateuch are all set temporally in the period before the rise of the Israelite states, they are allegorical in that they refer to events and institutions of the Israelite states and then of the Jewish communities in the years between ca. 1200–300 B.C.E. Second, the book

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Studying the Patriarchal Narratives as Ancient Texts," in A. R. Millard and D. J. Wiseman, eds., *Essays on the Patriarchal Narratives* (Winona Lake: Eisenbrauns, 1983) 35–51; A. R. Millard, "Abraham (Person)," *ABD* 1:35–41.

14 Most of Kaufmann's output, notably his magnum opus תולדות האמונה הישראלית (8 vols.; Jerusalem: Bialik, 1937–57). The first volume appeared in 1938. An English translation and abridgement by Moshe Green-berg entitled *The Religion of Israel* (Chicago: Univ. of Chicago) appeared in 1960, and his commentaries on Joshua (ספר יהושע [Jerusalem: Qiryat Sepher, 1959]) and Judges (ספר שופטים [Jerusalem: Qiryat Sepher, 1962]) were composed in *Ivrit*, which was in those days not generally accessible to gentiles. The biblicists at Jewish Theological Seminary of America in New York, notably H. L. Ginsberg, who were greatly influenced by Kaufmann as well as by the Albright school, steeped several generations of rabbis and scholars in the Kaufmann-Albright tradition.

15 By "risk" (*Biblical Archaeology*, 27) Wright was referring to the potential harm to Christian faith.

16 Among these are the historical evidence for various kings, such as Mesha of Moab, Hazael of Aram, Necho and Taharqo (for the Kushite original, reflected in Hebrew as תרהקה, see L. Török, *The Kingdom of Kush* [Leiden: E. J. Brill, 1997] 131, n. 3) of Egypt; Omri, Ahab, Ahaz, Jehu, Hezekiah, and Jehoiakin; and the confirmation that Sennacherib did not take Jerusalem. We might also note such accurate reflections of non-Hebrew or non-Aramaic titles in the biblical forms רב מג, רבשקה, סריס, תרתן, אחשדרפנים, גזבר.

17 The exodus seems originally to have been a northern tradition which subsequently made its way to Judah. See R. Carroll, "Psalm LXXVII: Vestiges of a Tribal Polemic," *VT* 21 (1971) 133–50; Y. Hoffman, "A North Israelite Typological Myth and a Judaean Historical Tradition: The Exodus in Hosea and Amos," *VT* 39 (1989) 169–82; idem, *The Doctrine of the Exodus in the Bible* (Tel-Aviv: Tel-Aviv Univ., 1983).

18 Bright, *History* (1972) 119.

maintained that these same narratives are not primarily antiquarian, but rather ideological, in that they advocate positions intended to influence the contemporaries of the authors[19] in matters which to them were of contemporary concern.[20] The definition of "allegory" employed in the book and the present study is that of Morris Abrams:

> Allegory is a narrative in which the agents and the action, and sometimes *the setting* as well, are contrived not only to make sense in themselves, but also to signify a second correlated order of things, concepts or events (emphasis added).[21]

In what follows, the story of Miriam, Aaron and Moses will be read as a historical allegory. First, however, it will be necessary to examine some of the details of the narrative.

Numbers 11:35–16:16

לה מקברות התאוה נסעו העם חצרות ויהיו בחצרות:[22] פ
א ותדבר מרים ואהרן במשה על־אדות האשה הכשית אשר לקח כי־אשה כשית לקח:
ב ויאמרו הרק אך־במשה דבר יהוה הלא גם־בנו דבר וישמע יהוה: ג והאיש משה ענו
[עניו] מאד מכל האדם אשר על־פני האדמה: ס ד ויאמר יהוה פתאם אל־משה ואל־אהרן
ואל־מרים צאו שלשתכם אל־אהל מועד ויצאו שלשתם: ה וירד יהוה בעמוד ענן ויעמד
פתח האהל ויקרא אהרן ומרים ויצאו שניהם: ו ויאמר שמעו־נא דברי אם־יהיה נביאכם
יהוה במראה אליו אתודע בחלום אדבר־בו: ז לא־כן עבדי משה הכל־ביתי נאמן הוא:
ח פה אל־פה אדבר־בו ומראה ולא בחידת[23] ותמנת יהוה יביט ומדוע לא יראתם לדבר

19 For a thoroughly convincing example within prophetic narrative see A. Rofé, ספרורי הנביאים (Jerusalem: Magnes, 1982) 111. Rofé's study of 2 Kings 5 demonstrates that the gentile character Naaman's strategy of taking bags of Israelite earth to Syria reflects a practice whereby exiled Israelites adapted ritually to life outside the cultically pure land of Israel.

20 Sperling, *The Original Torah*; See the reviews by B. Porten, *HS* 40 (1999) 292–96; G. Rendsburg, *AJSR* 24 (1999) 359–62; J. Levenson, *Review of Biblical Literature* [http://www.bookreviews.org] (2000); Although Wellhausen, followed by recent scholars, attempted to approach many pentateuchal narratives in this fashion, neither he nor they employed the concept of allegory. *Original Torah* argues that the allegorical approach is to be applied as a general hermeneutical principle to all the narratives of the Pentateuch.

21 M. Abrams, *A Glossary of Literary Terms* (New York: Holt, Rinehart and Winston, 1971) 4.

22 Hazeroth frames the narrative. See 12:16.

23 The term for "riddle," חידה, is a significant clue to the dating of the pericope. Most scholars consider the vocable a loan from Aramaic derived from אחד, "to seize," "take," which also has the senses "to close," "lock." If this etymology is correct than the Hebrew חידה could not have been borrowed from the Aramaic before the shift of *dhal* to *dalet* within Aramaic. That shift occurred in Imperial Aramaic, i.e., not before the late sixth century B.C.E. (See S. Kaufman, "Languages [Aramaic]," in ABD 4:177.) In a posthumously published paper, my lamented teacher Professor Moshe Held, מנוחתו כבוד, argued for a derivation of חידה from Akkadian *hittu*, a noun perhaps meaning "riddle," but

בעבדי במשה: ט ויחר־אף יהוה בם וילך: י והענן סר מעל האהל והנה מרים מצרעת כשלג ויפן אהרן אל־מרים והנה[24] מצרעת: יא ויאמר אהרן אל־משה בי אדני אל־נא תשת עלינו חטאת אשר נואלנו ואשר חטאנו: יב אל־נא תהי כמת אשר בצאתו מרחם אמו ויאכל חצי בשרו: יג ויצעק משה אל־יהוה לאמר אל נא רפא נא לה: פ יד ויאמר יהוה אל־משה ואביה ירק ירק בפניה הלא תכלם שבעת ימים תסגר שבעת ימים מחוץ למחנה ואחר תאסף: טו ותסגר מרים מחוץ למחנה שבעת ימים והעם לא נסע עד־האסף מרים: טז ואחר נסעו העם מחצרות ויחנו במדבר פארן: ספפ

From Qiberoth ha-Taawah the people journeyed to Hazeroth. While they were in Hazeroth, Miriam, and Aaron as well, spoke against Moses with regard to the Kushite woman he married, for he married a Kushite woman. They said, "Has YHWH spoken solely and exclusively[25] to[26] Moses? Has he not also spoken to us?" And YHWH heard. Now the man Moses was very humble; more than any human[27] who is on the face of the earth. But YHWH immediately[28] said[29] to Moses, and to Aaron and to Miriam, "go out the three of you to the Tent of Meeting."[30] So the three of them went out. Then YHWH came down in a pillar of cloud and stood at the entrance of the Tent of Meeting. He called out: "Aaron and Miriam," so the two of them went out. Then He said "Please![31] Hear my words: If you have a prophet

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attested only in lexical texts. (See M. Held, "Marginal Notes to the Biblical Lexicon," in A. Kort and S. Morschauser, eds., *Biblical and Related Studies Presented to Samuel Iwry* [Winona Lake, Ind.: Eisenbrauns, 1986] 133–54). In a forthcoming study I hope to demonstrate that the Aramaic derivation is sounder.

24 On הנה see S. Kogut, "On the Meaning and Syntax of הִנֵּה in Biblical Hebrew," in S. Japhet, ed., *Studies in Bible*, ScrHier 31 (Jerusalem: Magnes, 1986) 133–54.

25 This is the only biblical attestation of הרק אך. The collocation of the two synonyms makes for emphasis. See ibn Ezra a.l. (ed. Weiser, 3:148).

26 In 2 Sam 23:2 the phrase דבר ב said of the spirit of YHWH, might best be translated as "spoke through." Rashbam translates בנו in our passage as על ידינו, "through us." In Num 12:7, 8a, the same phrase is best rendered "spoke to." Note though that NJV translates by "spoke through" in Num 12:2 and 8a. The choice between "spoke to" and "spoke through" may reflect more a problem of English translation than a difference in the sense of the Hebrew.

27 I.e., male or female.

28 The contrast is between the humility of Moses who does not respond to the criticisms, and the immediacy of YHWH's response. Cf. LXX: παραχρῆμα, "on the spot, forthwith." See Henry George Liddell and Robert Scott, *A Greek-English Lexicon* (9th ed.; Clarendon Press: Oxford, 1968) 1331. "Forthwith," for פתאם is preferable to "suddenly," in Mal 3:1 as well. See A. B. Ehrlich, *Mikra ki-Pheshuto The Bible According to its Literal Meaning* (repr.; New York: Ktav, 1969) 259.

29 Inasmuch as YHWH hadn't yet descended perhaps we need to compare the voice from heaven in Dan 4:28.

30 On the different biblical traditions regarding the Tent of Meeting see now A. Cooper and B. Goldstein, "At the Entrance to the Tent: More Cultic Resonances in Biblical Narrative," *JBL* 116 (1997) 201–15; I. Knohl, "Two Aspects of the Tent of Meeting," in *Tehillah le-Moshe: Biblical and Judaic Studies in Honor of Moshe Greenberg* (Winona Lake, Ind.: Eisenbrauns, 1997) 73–79.

31 For this translation of נא see S. Kaufman, "An Emphatic Plea for Please," *MAARAV* 7 (1991) 195–98.

of YHWH,[32] *in a vision I make myself known to him in a dream I speak to him. Not so my servant Moses, in all my household*[33] *it is he*[34] *who is trusted.*[35] *Mouth to mouth I speak to him and not in riddles; and he beholds the image and likeness*[36] *of YHWH. Why then did you not fear to speak against my servant, against Moses?" The anger of YHWH burned against them and He left. When the cloud turned away from the Tent, there was Miriam, diseased in skin,*[37] *white as the snow. When Aaron turned to Miriam there she was, diseased in skin. Then Aaron said to Moses, "Pray my lord, do not lay upon us the punishment for habitual sin, for we sinned in foolishness. Let her not be like one born dead, whose flesh is half-consumed when it comes forth from its mother's womb." So Moses cried out to YHWH, "God, please heal her."*[38] *But YHWH said to Moses, "Had her father deliberately*[39] *spit in her*

32 The Hebrew is difficult. Our translation follows S. D. Luzzatto, *Commentary on the Five Books of Moses* (Heb.), P. Schlesinger, ed. (Jerusalem: Devir, 1965) 458 who compares ידיהם "they have hands," in Ps 115:7; see further, S. Loewenstamm, "On the Predicative Use of the Suffix Joined to a Subject-Noun in Hebrew and Ugaritic," in idem, *Comparative Studies in Biblical and Ancient Oriental Literatures* (Kevelaer: Butzon & Bercker, 1980) 455–58; another possibility is to treat אם יהיה נביאכם יהוה as an ellipsis for אם יהיה נביאכם ‹נביא› יהוה. Cf. ibn Ezra a.l.; Ehrlich arrives at the very same result by comparing the structure of נביאכם יהוה with מדו בד (ולבש הכהן) "(the priest) shall wear his tunic, the linen tunic," in Lev 6:3. See Ehrlich, Mikra 1:260; LXX ἐὰν γένηται προφήτης ὑμῶν κυρίῳ would reflect: אם יהיה מכם נביא ליהוה. For נביא ליהוה cf. 1 Kgs 22:7.

33 Several of the Aramaic versions understand "household" figuratively. *Tg.Onq.* has בכל עמי "among all my people"; *Tg.Neof.* has בכל עולמי דברית "in the entire world I created"; and *Tg.Ps.-J.* בכל בית ישראל בכל עמי "among the whole house of Israel, among all my people." Similarly, Saadia has (ed. Derenbourg, 210) פי גמיע אמתי "among all my people."

34 NEB and REB: "He alone is faithful." Luzzatto (*Commentary*, 458) explains the *beth* of בכל ביתי as בית היתרון "*beth* of superiority," as in "most beautiful of women" (Cant 1:8); Cf. Levine (*Numbers*, 315): "He is most trusted," and Vulgate "fidelissimus est"; The Aramaic versions (מהימן הוא) and LXX (πιστός ἐστιν) are literal with no additional nuance.

35 The identical triad עבד, בית, נאמן occurs in 1 Sam 22:14 in describing the royal household, which is the context here; the image of the divine household is modeled after the palace and its personnel. See B. Levine, *Numbers 1–20*, AB 4a (New York: Doubleday, 1993) 342; Contrast M. White, "The Elohistic Depiction of Aaron," VTSup 41 (1990) 158. Moses is called עבד יהוה in Deut 34:5; for the prophets as God's עבדים see e.g., 2 Kgs 9:7, 17:13; Jer 7:25, 26:5, 35:15, 44:4; Ezek 38:17; such praise of the reliability of Moses as God's עבד is no small thing. After all, God does not even trust his angelic עבדים. See Job 4:28 (Luzzatto, *Commentary*, 458).

36 So, approximately Ehrlich, Mikra, 261. Ehrlich understands the verse anastrophically, as though it read: פה אל פה אדבר בו ולא בחידות ומראה ותמנת יהוה יביט.* Note that the vocables תמנת and מראה occur in parallelism in Job 4:16.

37 Biblical Hebrew צרעת refers to a variety of skin diseases as well as to discolorations in inanimate objects. Neither the biblical term nor its Akkadian counterpart *saḫaršubbû/saḫaršuppû* (*AHw*, 2:1005) describes true leprosy, or Hansen's Disease, which was apparently unknown before the days of Alexander the Great. See D. Wright and R. Jones, "Leprosy," in *ABD* 4:277–82; R. Biggs in *CANE* 3:1916.

38 Moses requests immediate aid. (So ibn Ezra [ed. Weiser, 3:149] and Sforno [ed. Gottlieb, 276]. Cf. the use of צעק in Exod 8:8, 17:4, 22:22, 26; Neh 9:27.) The request for immediate healing is denied.

39 The use of the infinitive absolute followed by the finite verb is to exclude an inadvertent projection of saliva as in sneezing.

face,[40] *she would surely bear her shame for seven days. Let her be afflicted in skin*[41] *for seven days after which she will be cured."*[42] *So Miriam remained afflicted in skin outside the camp for seven days, and the people did not travel until Miriam was cured. Then afterwards the people traveled from Hazeroth and camped in the wilderness of Paran.*

The first question that confronts the reader is the unity of the chapter. The question arises immediately out of the first two verses. In v. 1 Miriam and Aaron speak against Moses for marrying a Kushite woman. In v. 2 however, where their words are quoted, the complaint is that YHWH has not spoken to Moses exclusively, but to them as well. As we learn from YHWH's rebuke in vv. 6–8, Miriam and Aaron view themselves as prophets on a par with Moses. The apparent discontinuity between the criticism of Moses in v. 1 and the criticism in v. 2 has led scholars from antiquity to the present time either to seek some thematic connection between the two elements, or to separate them. Jewish sources from Late Antiquity through medieval times applied midrashic technique to connect vv. 1–2 by identifying the Kushite woman with Zipporah,[43] the wife of Moses

40 For spitting in the face as shaming, cf. Deut 25:9; Isa 50:6 (note the pairing מכלמות ורק); Job 30:10. For spitting in Ugarit as an act of shaming see CTU (M. Dietrich, et al., *The Cuneiform Alphabetic Texts from Ugarit, Ras Ibn Hani and Other Places* [2d ed.; Munster: Ugarit-Verlag, 1995] 1.4 iii:10–22 [p.17]). In the Akkadian incantation series Maqlû (vii:100–102; ed. G. Meier, p.50) the sorceress is told: *amahhaṣ lītki ašallapa lišānki umalla ru'ata ēnāki*, "I smite your cheek, I pull out your tongue, I fill your eyes with spittle." In certain instances however, saliva could be curative. In the Akkadian incantation series Šurpu (vii:61; ed. E. Reiner, p.38) spittle is employed in a ritual to heal a person seized by an oath. In Roman Palestine, Jesus (Mark 8:22–26) cured a man's blindness by putting saliva on his eyes. Similarly, an anecdote about R. Meier (2d cent. C.E.) indicates that a woman might cure an eye ailment by spitting in the eye of the victim (*y. Soṭah* 1:4, p.16d). In sum, whether spittle was positive or negative depended on the intent of the spitter. In Egyptian myth Atum spits out Shu and Tefnut. According to Muslim tradition Muhammad spat into the mouth of his grandson Hasan at birth. See the examples cited by A. Ronnberg, "Spittle and Spitting" *EncRel(E)* (1987) 14:37–38; see further, A. Parrinder, ibid., 582.

41 The translation is based on the fact that in the Aramaic of *Tg. Onq.*, סגירו translates Hebrew צרעת, סגיר translates צרוע, and סגירא translates מצרעת. See H. J. Kasovsky, *Ozar Leshon Targum Onkelos Concordance* (rev. ed., 2 vols.; Jerusalem: Magnes, 1986) 2:101 and the next note.

42 For this understanding of אסף as "heal from צרעת," see W. Bacher, *Sefer Haschoraschim Würzelwörterbuch der hebräischen Sprache von Abulwalid Merwan ibn Ğanah* (repr.; Amsterdam: Philo, 1969) 41–42. Ibn Janah compares the use of the verb אסף in 2 Kgs 5:3, 6, 7, 11; note further that *Tg. Neof.* renders the root אסף in Numbers 12 by forms of Aramaic אסי, "heal." The same is true of recension A of the Samaritan Targum. See A. Tal, *The Samaritan Targum of the Pentateuch: A Critical Edition* (3 vols.; Tel-Aviv: Tel-Aviv Univ., 1981) 2:195; See further Y. Zakovitch, *Every High Official* (Heb.: גבה מעל גבה) (Tel-Aviv: Am Oved, 1986) 142–45. Zakovitch points out several other significant parallels between 2 Kings 5 and Numbers 12. See below.

43 See Louis Ginzberg, *The Legends of the Jews* (7 vols.; Philadelphia: The Jewish Publication Society, 1959–69) 3:255–56; 6:90, n.488. Some modern scholars equate Kushites and Midianites on the basis of the parallelism Kushan//Midian in Hab 3:7. See e.g., M. Noth, *Numbers* (London: SCM,

according to Exodus 2:21; 18:2, 5–6. In these midrashic traditions[44] the verb לקח is taken as a pluperfect, that is, Moses had previously married Zipporah, a beautiful women, referred to by the dysphemism "Kushite" as a precaution against the evil eye.[45] Subsequently however, he had divorced her,[46] or on another account, had stopped having sexual relations with her.[47] In either case, Miriam and Aaron had attributed Moses' dismissal of Zipporah to his haughty belief[48] that prophetic office precluded sexual intimacy. The complaint by Miriam and Aaron was that inasmuch as they too were prophets, and had not abandoned their spouses through either divorce or marital celibacy,[49] there was no need for Moses to abandon Zipporah his Kushite wife.

1968) 94; F. Cross, *Canaanite Myth*, 204. Although this suggestion was already anticipated by ibn Ezra in his comment to Num 12:1 (ed. Weiser, 3:147), it is rightly rejected by J. van Seters, *The Life of Moses The Yahwist as Historian in Exodus-Numbers* (Louisville: Westminster/John Knox, 1994) 238.

44 There are other traditions, including the *Tg.Ps.-J.* to Numbers 12, according to which Moses had actually married a Kushite woman in his youth, prior to the exodus. See A. Shinan, "Moses and the Ethiopian Woman Sources of a Story in the Chronicles of Moses," in J. Heinemann and S. Werses, eds., *Studies in Hebrew Narrative Throughout the Ages*, ScrHier 27 (Jerusalem: Magnes, 1978) 66–67; For the Targum text see E. G. Clarke, ed., *Targum Pseudo-Jonathan to the Pentateuch and Concordance* (Hoboken, N.J.: Ktav, 1984) 171.

45 So, Rashi to v. 2 (ed. Chavell, 442).

46 The divorce tradition is based on Exod 18:2–6. Although the standard Jewish medieval commentaries to Exod 18:2 (including Rashi; but see the next note) do not understand שלוחיה "her being sent away" as a reference to divorce, that is the interpretation of R. Joshua cited in Mekilta Yitro (ed. Horovitz-Rabin, 190) who compares the use of the *piel* of שלח in Deut 24:1.

47 Siphre Piska 99, 100 (ed. Horovitz, 98–9); Rashi in his comment to v. 1 (ed. Chavell, 441) first relays the tradition of marital celibacy. At the end of the comment however (ed. Chavell, 442), he expands כי אשה כשית לקח by adding the phrase ועתה גרשה "and now he has divorced her." Rashi thus conflates the traditions of Zipporah's divorce and Moses' assumption of marital celibacy.

48 See ADRN 9 (ed. Schechter, 40): מרים אמרה עלי היה הדבור ולא פירשתי מבעלי. אהרן אמר עלי היה הדבור ולא פירשתי מאשתי. ואף אבותינו הראשונים היה הדבור עליהם ולא פירשו מנשותיהם אבל מפני שדעתו גסה עליו פירש לו מאשתו Miriam said, "Prophecy came upon me but I did not abstain from my husband." Aaron said, "Prophecy came upon me but I did not abstain from my wife. And even our earliest ancestors – prophecy came upon them and they did not abstain from their wives, but he (Moses) because he is haughty, has abstained himself from his wife." According to *b.Šabb* 87a, and *b.Yebam* 62a, it was Moses' own idea to adopt marital celibacy after receiving the Torah, but an idea of which God subsequently approved (והסכים הקב"ה עמו). See also Rashi a.l. On the rabbinic attitudes to marital celibacy as reflected in the rabbinic readings of Numbers 12 see D. Boyarin, *Carnal Israel* (Berkeley: Univ. of California, 1993) 159–65.

49 These sources, no doubt, reflect the rabbinic reactions to diverse attitudes toward marriage, sexual conduct within marriage, and the purposes of marriage that Jews encountered in their dealings with Christians, Zoroastrians, and pagan philosophers. See the discussion and literature cited in I. Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History* (Heb.) (Jerusalem: Zalman Shazar Center, 1990) 266–73; see further, E. Pagels, *Adam, Eve, and the Serpent* (New York: Random House, 1988) esp. 18–20, 78–97.

In contrast, the church father Origen saw thematic disunity in the vv. 1–2, so much so that he identified Numbers 12 as an example of a scriptural pericope that demanded an allegorical rather than a literal interpretation. On Origen's analysis, had chapter 12 been intended to be taken literally, then v. 2 would have continued the criticism voiced in v. 1, by suggesting that Moses take an Israelite wife, preferably a Levite. The shift to an attack on the uniqueness of Moses' prophetic office demonstrates to Origen that an allegorical reading is required. In Origen's Christian allegorical reading Moses represents the spiritual law and the Kushite woman the gentile church. Miriam represents the superseded Jewish nation, while Aaron stands for the priesthood according to the flesh.[50]

Among modern scholars there is a similar diversity between those who seek to find a thematic unity in the chapter and those who wish to break the pericope into individual components or literary sources.[51] J. Licht[52] for example sees here a (hypothetical) external tale in which Miriam alone spoke against Moses criticizing his marital choice, and a (hypothetical) internal tale in which both Aaron and Miriam denied the existence of a qualitative difference between the prophecies of Moses and their own. Others[53] connect vv. 1 and 2 in a literary fashion, viewing the criticism of the Kushite wife as a pretext employed by Miriam and Aaron in order to challenge the prophetic priority of Moses, which was their real concern. One important structural consideration however points to the unity of the pericope and that is the play on דבר ב "spoke against" (negative) and "spoke to" (positive). The phrase is negative in v. 1; positive (twice) in v. 2; positive in v. 6. Finally in v. 8 the phrase appears twice, positive in the first occurrence and negative in the second.[54] In addition, although the content of the divine rejoinder 5–8 addresses the standing of Moses as a prophet, the language of the rejoinder ומדוע לא יראתם לדבר בעבדי במשה "why did you not fear to speak against my servant, against Moses?" returns the audience to v. 1, that is to the question of the Kushite woman. In other words, on YHWH's authority one is to question neither the prophetic standing of Moses nor his choice of a Kushite wife.

In light of the structural unity one may easily answer the objections leveled against the unity of the pericope: a. The disagreement in gender and number

50 See S. Kamin, *Jews and Christians Interpret the Bible* (Jerusalem: Magnes, 1991) 79–80 (Heb. section). It appears that the medieval Jewish Bible scholar Rabbi Joseph Bekhor Shor was aware of Origen's commentary to Numbers 12 in some form. See Kamin, ibid, 73.

51 For some references see van Seters, *Life*, 234–39. Van Seters himself views the entire pericope as the work of the Yahwist.

52 J. Licht, *A Commentary on the Book of Numbers xi-xxi* (Heb.) (3 vols.; Jerusalem: Magnes, 1991) 2:36.

53 E.g., J. Milgrom, *The JPS Torah Commentary: Numbers* (Philadelphia: Jewish Publication Society, 1990) 94.

54 I thank Professor Bezalel Porten for his observation that the negative use of דבר ב in v. 8 makes for a chiasmus with v. 1.

between the subjects Miriam and Aaron in v.1 has been addressed by numerous scholars. As already observed in the Gesenius grammar,[55] similar phenomena appear in Genesis 31:14;[56] in Exod 15:1;[57] and especially Judges 5:1.[58] In each case the gender and the number indicate the primary active party. b. The fact that Miriam alone is punished with skin disease[59] while Aaron is not[60] has likewise been addressed in the past: one function of the pericope is to provide the etiology of the short prayer אל נא רפא נא לה,[61] which can apply grammatically only to a female rather than a male. Second, because Aaron himself is not diseased[62] he can mediate for Miriam.

With regard to צרעת as punishment for transgression, the observations of Yair Zakovitch in his monographic study of 1 Kings 5[63] need to be taken into account and expanded. Zakovitch demonstrated that in all the biblical narratives in which a person is punished with צרעת the punishment is due to his or her failure to submit to the proper[64] authority.[65] Similarly, in the treaty between Ashurnirari V and Mati'ilu the Akkadian equivalent of צרעת, *saḫaršubbû* is threatened as punishment for not serving Ashurnirari in full loyalty.[66] In 2 Kings 5 Gehazi is punished with צרעת for undermining the authority and standing of Elisha. In Numbers 12 Miriam is punished with צרעת for challenging the standing and authority of Moses. Another feature shared by Numbers 12 and 2 Kings 5 is the

55 Par. 146g.

56 ותען רחל ולאה ותאמרנה

57 אז ישיר משה ובני ישראל

58 ותשר דבורה וברק בן אבינעם

59 A tradition that YHWH did something to Miriam on the journey from Egypt is found in Deut 24:9. No further details about what YHWH did are given. Inasmuch as the verse follows immediately upon the command to follow priestly instruction in cases of the צרעת skin disease, the author of Numbers 12 may have concluded, as have most commentators (see e.g., J. Tigay, *The JPS Torah Commentary: Deuteronomy* [Philadelphia: Jewish Publication Society, 1996] 225), that what YHWH did to Miriam was connected to the previous verse. The connection served his own purposes in composing Numbers 12. Contrast van Seters, *Life*, 239, who regards Deut 24:9 as a gloss.

60 According to *b.Šabb* 97a, R. Akiba expressed the opinion that Aaron too was afflicted with skin disease.

61 There is no need to emend אֵל to אַל as do Levine and others.

62 But he fears that he may be. Note the plural in v.11: "Pray, my lord do not lay upon *us* the punishment." Note further that Aaron acknowledges Moses as "lord," an admission of inequality. Furthermore in the words "do not lay upon us," he acknowledges the ability of Moses to inflict the punishment.

63 *High Official* cited above, n.34.

64 I.e., the authority of which the author or narrator approves.

65 See e.g., 2 Kgs 5:20–27; 2 Chr 26:16–21.

66 SAA 2, p.11 Reverse iv:1–5 (Mati'ilu is threatened with *saḫaršubbû* should he fail to serve Ashurnirari V "with his full heart" [Akk: *ina gamurti libbišu*]). See further, Tigay, *Deuteronomy*, 543, Excursus 27; see also 494–98 and the notes and references ibid., 543.

equation between the צרעת sufferer and the dead.[67] Perhaps the most significant connection is between צרעת and prophecy. In 2 Kgs 5:8, when Elisha hears that Naaman has been sent to Israel for the healing of his צרעת Elisha says, "Let him please come to me so that he will know that there is a prophet in Israel." In Num 12:11–12 when Aaron appeals to Moses to heal Miriam he is acknowledging the prophetic standing of Moses which he and Miriam had challenged.

With regard to the content of the criticisms leveled against Moses, we must ask two questions: first, what is problematic about marriage to a Kushite[68] woman? Second, is there a non-midrashic connection between Israelite-Kushite marriage and the prophetic standing of Moses? Ehrlich[69] suggested both a literary and thematic connection between the two:

> You know that it is regular scriptural practice to hold both extremes of a matter; the first something of little importance, the second a significant matter, with the intent to include everything in between.

In another words we have here a merism; the matter of little importance is the marriage to the Kushite, while the significant matter is the exalted status of Moses relative to Miriam and Aaron. But Ehrlich continues:

> To me it seems that there is a connection between the two matters which Scripture details in the conversation between Aaron and Miriam. For we know about Muhammad that with regard to marrying women he permitted to himself what he prohibited to the entire people.

Doubtless, Ehrlich was referring to Sura 4:3 in which men were permitted to marry either two, three or four women. According to Muslim tradition, however, the prophet himself had fourteen wives or concubines.[70] Ehrlich then goes on to make a very interesting observation:

67 See Num 12:11 and cf. 2 Kgs 5:7; note further that following King Uzziah's outbreak of צרעת (2 Chr 26:21) he dwells in בית החפשית (*qere*), the equivalent of Ugaritic *bt ḥpṯt*, the realm of the dead. (See HALAT, 328b.)

68 Ancient Kush in Northeast Africa lies partly within modern Egypt and partly within modern Sudan. The translation "Ethiopia" in many English Bibles is based on the Greek terminology, which from Herodotus onward designated the lands south of Egypt. In Num 12:1 LXX translates האשה הכשית (אשר לקח) by τῆς γυναικὸς τῆς Αιθιοπίσσης. Ancient Kush, however, does not correspond to modern Ethiopia. See *OCD* s.v. "Ethiopia," 558; "Race," ibid., 1293. For recent summaries on Kush, see W. Adams, "The Kingdom and Civilization of Kush in Northeast Africa," in *CANE* 2:775–89; R. Smith, "Ethiopia," *ABD* 1:665–67; D. B. Redford, "Kush," *ABD* 4:109–11; For a comprehensive study see now Török, *Kush* (above n.16).

69 Ehrlich, *Mikra* 1:259.

70 See W. M. Watt, "Muhammad," *EncRel(E)* 10:137–46, esp. 143.

> Perhaps all ancient prophets among the Semites had been given such permission[71] in antiquity. If so, and marriage to the Kushite woman was a matter which Moses permitted to himself but did not permit to every Israelite, that is why Miriam (and Aaron) said "Did the Lord speak only etc."?

In this last suggestion, however, Ehrlich had been anticipated by centuries by Rabbi Joseph Bekor Shor:[72]

> According to the plain sense: What they said was: "Couldn't Moses find a woman among the daughters of Israel to take for himself as a wife, that he went to take himself one of the daughters of the uncircumcised Kushites? Is it because the Holy (be He blessed) speaks to him that he exalts himself, not wishing to marry a woman from the daughters of Israel that he sought a wife from far off? After all He spoke with us as well, and we married within Israel rather than exalting ourselves in this"?

But if the truth be told, there is no biblical prohibition against marriage to a Kushite man or woman. Bekor Shor assumes that Moses sought a wife of geographically remote origins. But as is clear from the mention of Kushites in 2 Samuel 18 and in Jeremiah 36 and 38[73] Kushites can be documented as denizens of Israel over a period of centuries. It is even possible that such names as Kush b. Yemini and Zephaniah b. Kushi (the prophet)[74] demonstrate that Kushites had to some extent been absorbed within Israel.[75] Secondly, there is no indication that those Kushites who dwelt within Israel were uncircumcised. Indeed, according to the great triumphal stela[76] of the Kushite king Piye[77] he himself appears to

71 Ehrlich cites Hosea's marriage to Gomer in Hosea 1.

72 Ed., Y. Nebo (Jerusalem: Mossad Harav Kook, 1994) 258.

73 Note the genealogy tracing Yehudi back three generations to an ancestor named Kushi (Jer 36:14).

74 Berlin rejects Zephaniah's Kushite connection. See A. Berlin, *Zephaniah: A New Translation with Introduction and Commentary*, AB 25a (New York: Doubleday, 1994) 66–67.

75 See R. Smith, "Ethiopia," *ABD* 2:665–67; we might also call attention to the biblical figure Phineas son of Elazar and grandson of Aaron (see J. Spencer, "Phinehas," *ABD* 5:346–47). The name is Egyptian Panehesy, which means "the southerner," which from the perspective of Egypt implied black African. Whether the name carried that implication when borrowed into Hebrew cannot be ascertained. Coincidentally, the viceroy of Kush who rebelled against Ramesses XI was named Panehesy. On this individual see the index in Török, *Kush*, 567.

76 For a translation see M. Lichtheim, *Ancient Egyptian Literature. A Book of Readings III. The Late Period* (Univ. of California: Berkeley, 1980) 66–84. The relevant passage is on p. 80; See further, P. Galpaz-Feller, "The Stela of King Piye: A Consideration of 'Clean' and 'Unclean' in Ancient Egypt and the Bible," *RB* 102 (1995) 506–21. In the older scholarly literature the name is given as Pi-ankhi or the like.

77 Török (*Kush*, 83, 153) gives Piye's regnal years as ca. 746–16). Török (ibid., 55) dates the stela to ca. 727. Piye's descendents ruled Egypt as the twenty-fifth dynasty.

have been circumcised in his African homeland.[78] But even if Kushites in Israel were circumcised, their skin color[79] might have caused their total absorption into Israel to be less than complete even after several generations. Accordingly, the objection to Moses' marriage to a Kushite may be racially based, but is not a simple matter of racial discrimination. Instead, the question of race may provide a link between vv. 1 and 2 of Numbers 12. Buber[80] has argued that Moses, Aaron and Miriam constitute a family of seers. As such, the intrusion of a conspicuous foreign element might undermine the prophetic power of the family.

YHWH's appearance in vv. 6–8 defines the qualitative difference between the Mosaic prophecy and that of all other prophets, female and male. Just what is that qualitative difference? It has been customary to compare Num 12:6–8 with the closing lines of Deuteronomy (34:10–12):[81]

י ולא־קם נביא עוד בישראל כמשה אשר ידעו יהוה פנים אל־פנים: יא לכל־האתת והמופתים
אשר שלחו יהוה לעשות בארץ מצרים לפרעה ולכל־עבדיו ולכל־ארצו: יב ולכל היד
החזקה ולכל המורא הגדול אשר עשה משה לעיני כל־ישראל: פפפ

There never again arose in Israel a prophet like Moses — whom YHWH knew face to face — for the signs and the wonders that YHWH sent him to perform in the land of Egypt, against Pharaoh and all his servants and all his country, and for all the greatly terrifying deeds which Moses did[82] *with a strong hand in the sight of all Israel.*

Despite the fact however that both passages emphasize the uniqueness of Moses, it is a different uniqueness in each case. The conclusion to Deuteronomy emphasizes that in contrast to the prophets who followed him, it was only Moses who had been given divine authority to perform signs and wonders in the presence of Pharaoh. In addition, it was given to Moses alone to demonstrate his power in the sight of all Israel. But despite the fact that the author of Deut 34:10–12 emphasizes the uniqueness of Moses, he does not cast doubt on the reliability of those later prophets or their prophecies. Indeed, in Deuteronomy itself (Deut 18:15–18) YHWH promises Moses that He will raise up prophets[83] like Moses:

78 On the question of different kinds of circumcision see R. Steiner, "Incomplete Circumcision in Egypt and Edom: Jeremiah (9:24–25) in the Light of Josephus and Jonckheere," *JBL* 118(1999)497–526.

79 See Jer 13:23; Amos 9:7 seems to give "Kushite" a negative connotation.

80 M. Buber, *Moses The Revelation and the Covenant* (New York: Harper & Row, 1958) 167–68.

81 For a recent study see J. Tigay, "The Significance of the End of Deuteronomy (Deuteronomy 34:10–12)," in M.V. Fox (ed.), *Texts, Temples, and Traditions: A Tribute to Menahem Haran* (Winona Lake: Eisenbrauns, 1996) 137–43.

82 This language of signs and wonders, terrifying deeds and strong hand is elsewhere applied to YHWH's role in the exodus. See Deut 4:35 and the comments in Tigay, *Deuteronomy*, 66, 340.

83 Cf. J. Hayes, "Prophecy and Prophets Hebrew Bible," *BibInt* 2(1999)310; note the similarity of lan-

טו נביא מקרבך מאחיך כמני יקים לך יהוה אלהיך אליו תשמעון: טז ככל אשר־שאלת מעם
יהוה אלהיך בחרב ביום הקהל לאמר לא אסף לשמע את־קול יהוה אלהי ואת־האש הגדלה
הזאת לא־אראה ערד ולא אמות: יז ויאמר יהוה אלי היטיבו אשר דברו: יח נביא אקים להם
מקרב אחיהם כמוך ונתתי דברי בפיו ודבר אליהם את כל־אשר אצונו: יט והיה האיש אשר
לא־ישמע אל־דברי אשר ידבר בשמי אנכי אדרש מעמו

A prophet like me *will YHWH your god* raise up *from among your brethren in your behalf. To him you shall listen; in keeping with all you requested of YHWH your god at Horeb on the day of assembly, to wit: "Let me not continue to hear the voice of YHWH my god, and this great fire let me hear no longer, lest I die." So YHWH said to me: "Well have they spoken.* A prophet will I raise up *in their behalf from among your brethren,* like you. *I will put my words in his mouth and he will speak to them everything I command him to. As for the person who does not listen to my words which he (the prophet) will speak in my name I myself will call him to account."*

The point of the above percope is that prophets are absolutely necessary because given the risk of death by exposure to the voice of YHWH there must be some alternative means of access to the divine word. YHWH, therefore, will raise up prophets like Moses and place His words in their mouths. These prophetic successors will, like Moses, transmit those divine words to the people. In contrast, the author of Numbers 12 impugns the very nature of prophecy. True, according to Num 12:6 YHWH is made to say something which most biblical writers accept; namely that YHWH reveals himself to his prophets (and even laics)[84] in visions and dreams.[85] But in v.8 YHWH tells Aaron and Miriam that He speaks to Moses mouth to mouth and not in riddles. The clear implication is that to all other prophets YHWH does speak in riddles. Rhetorically, this is a brilliant strategy. The author does not deny the claims of Miriam and Aaron that YHWH spoke to them as well as to Moses. YHWH has indeed spoken to female[86] and male prophets

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guage. Deut 34:10 has כמשה ... ולא קם נביא, while Deut 18:15 has כמני יקים ... נביא and Deut 18:18 has נביא אקים ... כמוך.

84 See Gen 20:3, 31:24, 41:25.

85 On revelatory dreams see the references in Tigay, *Deuteronomy*, 367, n.13; Jeremiah does not accept the validity of dreams. A genuine prophet, as opposed to a dreamer, could stand in the divine council (סוד) and have access to reliable prophecy. See Jer 23:22, 25–8; See further Zech 10:2; Rofé has observed that Deut 18:14–20 does not list revelatory dreams as a source of the prophetic word." See A. Rofé, *Introduction to Deuteronomy Part I and further Chapters* (Heb.) (Akademon: Jerusalem, 1988) 61–2; W. McKane, *A Critical and Exegetical Commentary on Jeremiah*, ICC (2 vols.; Edinburgh: T&T Clark, 1986) 1:588–93.

86 It is of interest that in the seventh century Assyrian prophecies collected in SAA 9, nine of the thirteen different prophets are female and four male.

but, unfortunately, one cannot count on their reliability because YHWH's revelation to them was through dreams and riddles. By their very nature dreams and riddles require solution and interpretation, which can be faulty. In contrast to all prophecies by all prophets, the prophecies of Moses require no interpretation. They are completely clear because YHWH speaks to Moses mouth to mouth with Moses beholding YHWH's very image.[87] Linguistically, it has been observed that the phrase פה אל פה אדבר בו . . . ותמנת יהוה יביט can hardly be separated from that of Jer 32:4:[88] ודבר פיו עם פיו ועיניו את עינו תראינה "His (the king of Babylon) mouth shall speak with his (Zedekiah) and his eyes shall see his eyes."

There is another well-known pentateuchal tradition about the special character of YHWH's conversations with Moses in Exod 33:9–11:

ט והיה כבא משה האהלה ירד עמוד הענן ועמד פתח האהל ודבר עם־משה: י וראה כל־
העם את־עמוד הענן עמד פתח האהל וקם כל־העם והשתחוו איש פתח אהלו: יא ודבר
יהוה אל־משה פנים אל־פנים כאשר ידבר איש אל־רעהו ושב אל־המחנה ומשרתו יהושע
בן־נון נער לא ימיש מתוך האהל:

It happened that as soon as Moses entered the tent, the pillar of cloud would descend and stand at the entrance to the tent, and (YHWH) would speak to Moses. When all the people would see the pillar of cloud, all the people would rise and each of them would bow down at the entrance of his tent. Then YHWH would speak to Moses face to face, as a man speaks to his friend. Then he would return to the camp, but his assistant, the young Joshua son of Nun, would not leave the interior of the tent.

Levine[89] insists that Exod 33:11 is not to be taken literally. As proof he cites Exod 33:20: כ ויאמר לא תוכל לראת את־פני כי לא־יראני האדם וחי:

But He said: "You will not be able to see my face; for no human can see me and live."

The fact though is that Exod 33:20 is not a plain-sense interpretation of Exod 33:11, but a subversion of that passage. By placing the story of divine denial of Moses' request to see the face of God after the story of the tent where YHWH spoke to Moses face to face, the redactor of the chapter attempted to avoid the starkness of the "face to face" language. But in asserting the possibility that humans could see God face to face the writer of Exod 33:11 is not unique. Elsewhere

87 For a similar understanding of Num 12:8 see Tigay, *Deuteronomy*, 340.

88 See Licht, *Numbers*, 2:44; The verbs ראה and הביט occur regularly in hendiadys and synonymous parallelism. See e.g., Num 23:21; 2 Kgs 3:14; Isa 42:18, Isa 63:15; Ps 91:8; 142:5.

89 Levine, *Numbers*, 341.

in the Bible there are traditions that claim that humans might behold God,[90] but in none of these cases does that special privilege undermine the reliability of prophecy the way in which Numbers 12 does.[91]

Before attempting to account for the uniqueness of Numbers 12 it is necessary to underscore one irony of the chapter. In vv. 6–9 YHWH asserts that He appears to all His prophets, including Miriam and Aaron, in dreams and visions, and that He speaks to them in riddles. In this case, however, YHWH speaks to Miriam and Aaron directly and in utmost clarity. Apparently, the need of the author to impart his ideological message overrode the demands of literary consistency. To reiterate what was said at the outset of this article, no pentateuchal narrative is to be connected historically to its alleged chronological setting. Instead it is to be connected to its time of composition and to the concerns of its author and his contemporaries. In practice this means that stories about such fictitious characters as Abraham, Sarah, Esau, Miriam, Aaron and Moses are to be read as allegories about people, events and institutions between ca. 1200 and 300 B.C.E.

Numbers 12 has an ideological and didactic message for its audience. The author makes clear to his audience that only the prophecies of Moses are reliable. But as the audience is aware, Moses has long been dead. Where then are his prophecies to be found? As the audience knows, the prophecies of Moses are to be found in the written Torah, from which the audience is hearing the story. If so, then our pericope must date from a period when there was some form of written Torah available, and a time when this written Torah was competing with some other form of prophecy. The Achaemenid period (539–331 B.C.E.) best fits these conditions. As described in Ezra-Nehemiah,[92] under the Achaemenids the Jews were given limited autonomy to govern themselves by their own laws.[93] Some of the Jewish leaders took the opportunity to collect, edit and expand their traditional literature,[94] including what would become the Torah. What was to be the relation between the old form of prophecy delivered by inspired individuals,

90 According to Exod 24:9–11 the privilege was given to Moses, Aaron, Nadab, Abihu and seventy elders. According to Ps 17:15 David sees God's image.

91 For the possibility that God might deliberately mislead the prophet see J. J. M. Roberts, "Does God Lie? Divine Deceit as a Theological problem in Israelite Prophetic Literature," VTSup 40 (1988) 211–20. In Isa 6:8–13 the prophet's mission is temporarily to keep the people from comprehending the divine word.

92 See Ezra 7:11–26 esp. vv. 25–6.

93 For a thorough discussion of the literature assessing the reasons for the Achaemenid treatment of the Jews see Lisbeth Freed, "The Rise to Power of the Judaean Priesthood: The Impact of the Achaemenid Empire" (Ph.D. diss., New York Univ., 2000).

94 The process actually began with the Josianic reform. See M. Weinfeld, *Deuteronomy 1–11*, AB 5 (New York: Doubleday, 1991) 18. But Josiah was dead by 609 and the monarchy of Judah perished soon thereafter.

and prophecies preserved in written form?[95] The answer given by the author of Numbers 12 was that although the older form of prophecy was indeed the word of YHWH, it was flawed because of its lack of clarity. In contrast, the prophecies of Moses were the result of direct and clear communication. One no longer needed to rely on individual prophets[96] because the Torah of Moses was the highest form of prophecy.[97] Only in the Torah were the revelations of God to be found in their purest form.

95 Cf. Budd's statement: "Mosaic revelation has a unique and supreme authority and thus is paved the way for the 'Mosaic law' of the post-exilic period. Miriam and Aaron appear together to represent the claims of prophetic inspiration . . . Even prophetic revelation is subordinate to Mosaic religion." See P. J. Budd, *Numbers*, WBC 5 (Waco: Word books, 1984) 38. Budd dates Numbers 12 to the seventh century, but views the chapter as paving the way for post-exilic thinking. Budd's contrast between "prophecy" and "law/Mosaic religion," is a bit more theological than necessary. Numbers 12 contrasts not law and prophecy but Mosaic prophecy and that of all others.

96 There may be some allegorical connection between Numbers 12 and Neh 6:14: וגם לנועדיה הנביאה וליתר הנביאים אשר היו מיראים אותי "(And requite) Noadiah the woman prophet and the other prophets who were intimidating me." It is tempting to argue that "Miriam" of Numbers 12 is an allegorical reflex of Noadiah about whom there is no other extant biblical or extra-biblical material. But the reading is far from certain. See D. Marcus, "Is the Book of Nehemiah a Translation from Aramaic?" in M. Lubetski, et al., eds., *Boundaries of the Ancient Near Eastern World: A Tribute to Cyrus Gordon*, JSOTSup 273 (Sheffield, U.K.: Sheffield Academic Press, 1998) 107–108.

97 Hayes ("Prophecy," 310) reached a similar conclusion about Numbers 12 from a canonical perspective: "With all other prophets in a subordinate position to Moses, the prophetic canon is placed in a secondary position to the Torah." Hayes notes in this connection that the end of Malachi (3:22), the last book in the prophetic section of the OT, concludes with the admonition to recall the Torah of Moses. Similarly, Rofé had already shown that, in the canonical shape of the Hebrew Bible, care has been taken to refer to Torah study in Josh 1:8; and Ps 1:2. The message is that Torah takes precedence over the Prophets and Hagiography. See A. Rofé, "The Devotion to Torah-Study at the End of the Biblical Period: Joshua 1:8, Psalms 1:2; Isaiah 59:21," in S. Japhet, ed., *The Bible in the Light of its Interpreters Sarah Kamin Memorial Volume* (Jerusalem: Magnes, 1994) 622–28.

Forbidden Fruit

Ancient Near Eastern Sexual Metaphors

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In the literature of Sumer, Babylon and Assyria one encounters a broad variety of sexual metaphors. This study focuses upon sexual metaphors taken from garden imagery, including such terms as "fruit" and "eating," found in a variety of cuneiform texts. After cataloging a select few ancient Near Eastern examples of such metaphors, the focus shifts to ancient Hebrew literature, the Bible and the Talmud, seeking similar examples of fruit, garden and eating images. Following the presentation of several biblical and talmudic sexual metaphors, a detailed analysis of the Garden of Eden narrative in the Hebrew Scriptures reveals that the biblical writer was familiar with such usage and even employed sexual fruit metaphors in the story of Adam and Eve. Finally, in pursuit of a better understanding of "knowledge" and "sexual knowing," a comparison is made between the Garden narrative and an episode from the Gilgamesh Epic known as the "Seduction of Enkidu" (tablet I:160–93). From this comparison we learn that the "ascent of knowledge" theme is a part of the structure of both narratives.

Forbidden Fruit a flavor has
That lawful Orchards mocks —
How luscious lies within the Pod
The Pea that Duty locks —
— Emily Dickinson

When one analyzes ancient Near Eastern sexual metaphors with a view toward elucidating sexual references in the Hebrew Bible, new light is shed on the rhetoric of the Garden of Eden narrative in Genesis.[1] The focus of this analysis will be sexual metaphors from the Bible and ancient Near Eastern texts having to do with *fruit* and sexual *eating*. It turns out that "eating fruit" in Genesis 3 is a simple metaphor for intercourse and, therefore, the biblical narrator wishes to tell the reader by means of this metaphor that Adam and Eve experienced sex for the first time in the Garden. That carnal knowledge is the first rung on the ladder of human "knowing" is not only seen in Genesis, but is found in the structure of the Gilgamesh Epic as well. A comparison of the two narratives results in clarification of the "ascent of knowledge" theme often neglected by commentators on the book of Genesis.

1 The abbreviations used are those employed by the *Chicago Assyrian Dictionary,* the *Pennsylvania Sumerian Dictionary*, and Patrick H. Alexander et al., eds., *The SBL Handbook of Style for Ancient Near Eastern, Biblical, and Early Christian Studies* (Peabody, Mass.: Hendrickson, 1999).

Sexual Fruit Metaphors

The universality of sexual fruit metaphors may be linked to the intrinsic sexuality of fruit itself. Fruit is the reproductive part of the plant — its sexual organs.

> Fruit is . . . very colorful and shaped so that it is readily differentiated from foliage. It is attractive to the eye, and tempts one to approach and touch it. Fruit exudes an appealing fragrance, especially strong and irresistible when it is very ripe. Fruit makes an ideal metaphor for sex because the two have quite similar sensual attributes. The sex organs are irregular in shape in comparison to other body parts. They increase in size and change color during sexual arousal, making them more attractive. The odors of the vaginal and seminal fluids also serve to attract and arouse. And the juiciness of both fruit and pudenda is obvious.[2]

When we humans unlocked the secrets of botanical reproduction and fertility and began effective plant domestication, these metaphors appeared in the human lexicon; they are, therefore, present in the world's most contemporary as well as its most ancient literature. For example, the mandrake is commonly associated with fertility and is thought to be an aphrodisiac because its roots resemble both male and female genitals.[3] The fig, which is also seen as both male and female, is a fruit often associated with sexual images.[4] Fruit metaphors and related images taken from the world of gardens abound in the English poets from Lawrence to Chaucer, in the works of Europeans in all periods, and in the literature of classical Greece and Rome.

Ancient Near Eastern Sexual Fruit Metaphors

FRUIT IMAGES

The theme of gardens and their sexual metaphors is found as well in the ancient Near Eastern world. Lush orchards and fruit-filled gardens are frequently men-

2 L. A. Morrissett, "Gender Role and Sexuality in the Garden of Eden: Some Considerations of the Mythology and Meaning of Genesis 2–4" (Unpublished MS, 1992) 2. "Food is created by the sex of plants and of animals; and we find it sexy. When we eat an apple or peach, we are eating the fruit's placenta. But, even if that weren't so, and we didn't subconsciously associate food with sex, we would still find it sexy for strictly physical reasons. We use the mouth for many things — to talk and kiss, as well as to eat. The lips, tongue, and genitals all have the same neural receptors, called Krause's end bulbs, which make them ultrasensitive, highly charged. There's a similarity of response." Diane Ackerman, *A Natural History of the Senses* (New York: Random House, 1990) 132.

3 Marvin H. Pope, *Song of Songs: A New Translation with Introduction and Commentary,* AB 7c (Garden City: Doubleday, 1977) 647–50.

4 For a very salacious male lyric see May Sarton "The Fig," in J. and J. Digby, eds., *Food for Thought: an Anthology of Writings Inspired by Food* (New York: Morrow, 1987) 394.

tioned in Mesopotamian literature. The Akkadian word *kuzbu* is used to describe the "luxuriance" and "abundance" of fruit in orchards and gardens.[5] And this same *kuzbu* (ḫi-li in Sumerian) is frequently used to indicate sexual appeal in a human or a god: "she (Ištar) is wrapped in charm and loveliness, adorned with attractiveness and *sexual appeal* (and decked out with) cosmetics."[6] As a simple noun it can refer to one's sexual stamina, e.g., the god Ninurta is described as he "whose *sexual vigor* is inexhaustible."[7]

The noun *kuzbu* can also refer simply to sexual organs. For example, in a well-known passage from the Gilgamesh Epic the hunter instructs a prostitute on seductive body movements: "Expose your vulva! Let him take your *kuzbu*!"[8] In this poetic context *kuzbu* is a synonym for vulva; the focus never leaves the woman's pelvic area in the parallel stichs. In another Akkadian text: "Here is my *kuzbu*, get an erection! Let me have sex with you!"[9]

Another "garden" word in Akkadian is *inbu* "fruit." While there is no lack of examples of *inbu* as literal "fruit," notice that it functions as a sexual metaphor in the same manner as *kuzbu* and, in fact, occurs in parallel with *kuzbu*: "she carried off the young woman's attractiveness (*inibša*); by her angry look she took away her charm (*kuzubša*)."[10] Again, like *kuzbu*, *inbu* metaphorically refers to the penis. In the Gilgamesh Epic, when she makes her seduction speech, Ishtar says to Gilgamesh, "Come on, Gilgamesh, be my lover and grant me your fruit!"[11] "Give me your penis" seems to be the demand of the adventurous goddess of sexual attraction. Again, in an Old Babylonian love lyric, a female incites her lover

5 E.g., *kirī nuḫši ṣippat* NÍG.SA.SA.ḪI.A *ušasḫiršuma musarê kuzbi itâtišu ušalme*, "I surrounded it (the *bīt akīti*) with a fertile grove, an orchard with all kinds of fruit, and edged it with luxuriant flower beds," OIP 2 137:35 and, further, *kirâtišu . . . ša inba u karāna zaʾnama kīma tīk šamê inattuka*, "his orchards, studded with fruit trees and vines, dripping (with fruit as abundant) as the rainfall," TCL 3 + KAH 2:223 Sargon.

6 *šāt mēleṣim ruʾāmam labšat zaʾnat inbi miqiʾām u kuzbam*, *RA* 22 170:6 and 8.

7 [ḫi].li.bi nu.til.la : *ša kuzubšu la qatû*, Lugale IV 6.

8 *ūrki pitêma kuzubki lilqi*, "expose your *ūru* that he may take your *kuzbu*," GE I iv 9.

9 *kuzbi annūti tibi lurtāma*, VAT 17347 Rev 14, W. G. Lambert, "Divine Love Lyrics from the Reign of Abi-ešuḫ," *MIOF* 12(1966)50. As well, *kuzbu* refers to the penis: *nāra la ibbir kuzubšu imaqqut*, "he shall not cross a canal or his *kuzbu* will fall (i.e., he will lose his erection)," KAR 177 r. iii 34, *Iraq* 23: 90:12.

10 *ša ardati damiqti inibša itbal, ina nekelmîša kuzubša ilqe, eṭla ippalisma bāštašu īkim, ardata ippalisma inibša itbal, īmurannima kaššāptu illika arkija, ina imtiša iptaras alaktu*, "she carried off the young woman's attractiveness; by her angry look she took away her charm. She looked upon the young man and took away his virility. She looked upon the young woman and carried off her attractiveness. The sorceress saw me, she followed me, with her spittle she blocked (my) way." Maqlû III 9–14 Marie-Louise Thomsen, "The Evil Eye in Mesopotamia," *JNES* 51(1992)28 n.18. Note the same phenomenon in *RA* 22 170:6: *zaʾnat inbi . . . u kuzbam*, "adorned with attractiveness . . . and sex appeal" and further compare *Nanâ bēlet kuzbi*, "Nana, mistress of sexual charm" (Biggs Šaziga 31:22) with *Ištar bēlet inbi*, "Ištar, mistress of sexual charm" (*KAR* 357:28).

11 *inbīka jâši qāšu qīšamma*, GE VI 8.

to become sexually aroused so that they might make love.[12] While engaging in foreplay, he is invited to stroke her vulva and play with her breasts whereupon she announces that her "thighs are open" so that he can "enter."[13] During the foreplay she says, "your caresses are sweet (and) your 'fruit' is growing luxuriantly"[14] viz., "your penis is swelling."

In an erotic Assyrian literary text, there is a passionate exchange between Nabû and Tašmētu. The goddess begs for access to Nabû's "exquisite garden" and yearns, "may my eyes behold the gathering of your fruit, may my ears hear the twittering of your birds!"[15] The first half of the phrase employs the verb *qatāpu* which suggests "harvesting." Tašmētu wants to see Nabû's "fruit harvested," i.e., she hopes to enjoy his penis to the point of ejaculation. So, if the first stich of poetry refers to ejaculation, then we would expect that "twittering birds" is a parallel image. That the penis can be called a "bird" is neither unknown in the ancient Near East nor elsewhere. Note from *The American Heritage Dictionary*: "bird. 8. An obscene gesture of anger, defiance, or derision made by pointing or jabbing the middle finger upward."[16]

GARDEN IMAGES

Turning from "fruit" to the "garden" as sexual metaphor, let us consider a poem from ancient Sumerian literature. In an astonishing royal love song we hear the voice of a female speaking to us through a number of metaphors:

12 Col. i:3'–4' Kich I B472 (Ki 1063) Joan Goodnick Westenholz, "A Forgotten Love Song," in F. Rochberg-Halton, ed., *Language, Literature and History: Philological and Historical Studies presented to Erica Reiner*, AOS 67 (New Haven: American Oriental Society, 1987) 422–23.

13 Col. i:6'–15' Kich I B472.

14 *dādūka ṭâbu muḫtanbu(!) inbūka* col. i:6'–7' Kich I B472.

15 20') *qatāpu ša inbīka ēnāja līmura* 21') *ṣabāru ša iṣṣūrīka uznāja lisamme'a* IM 3223 van Dijk *Sumer* 13(1987)119 pls. xxvi-xxvii (= *TIM* 9 54); edition: Eiko Matsushima, "Le Rituel Hiérogamique de Nabû" *ASJ* 9(1987)131–75; Benjamin R. Foster, trans. *Before the Muses: an Anthology of Akkadian Literature* (2 vols.; Bethesda, Md.: CDL, 1993) 2:902–4; Alasdair Livingstone, *Court Poetry and Literary Miscellanea*, SAA 3 (Helsinki: Helsinki Univ. Press, 1989) 35–37.

16 *The American Heritage Dictionary of the English Language* (3d ed.; New York: Houghton Mifflin, 1992) 191a. See Thompson Gilg VI 43: *a-a-ú al-lal-ki* [ ] *i-lu-ú*. This "ascending bird" (*allallu elû*) may in the context refer both to the "little Shepherd Bird" Dumuzi and his erection (Thompson Gilg. pl. 21 and p. 39). For further use of the bird metaphor for penis see S. H. Stephan, "Modern Parallels to the Song of Songs," *JPOS* 2 (1922) 251, Waṣf xiii:8 "O Mansur, there is a bird under the navel . . ." "Bird" refers to either the *pudendum muliebre* or the *membrum virile* (Pope, *Song of Songs*, 60). See Matsushima, *ASJ* 9:174 21'. Also note the seduction scene in the Ugaritic myth "The Birth of the Beautiful Gods" (23 [52]: 41, 44, 47 f.): "Lo the bird roasts over the fire, bakes over the coals" (Pope, *Song of Songs*, 61). Note the same image in a sixteenth century Italian text (Pietro Aretino, 1534): "And juggling with little balls is less difficult to master than how to stroke a prick ["caress the bird" *accarezzare lo uccello*] so that, even if desire is lacking, it gets erect." D. O. Franz, *Festum Voluptatis: A Study of Renaissance Erotica* (Columbus: Ohio State Univ. Press, 1989) 64. Further, in modern English usage, "to lose one's bird" means to lose an erection.

Vigorously he sprouted,
vigorously he sprouted and sprouted,
watered it — it being lettuce!
In his shaded grove of the desert bearing much yield
did my darling of his mother,
my barley stalk full of allure in its furrow,
water it — it being lettuce,
did my one — a very apple tree bearing fruit at the top —
water it — it being a garden![17]

In this poem, lettuce and garden refer metaphorically to her vulva while the barley stalk and apple tree are metaphors for the male member. I wish to focus on line four and the apple tree image.[18] One person's metaphor can be a skeptic's literal text. How *does* one convince a doubter of the reality of subtle literary allusions, metaphorical or otherwise? What constitutes "proof" in an enterprise so intuitive as literary criticism? If the poet accidentally or for effect breaks the metaphor, extends it beyond its limits, his precise intention could become clear to the reader. For example, how is this apple tree like a phallus? First, it is turgid and erect, stiff and sturdy. Second, it is "bearing fruit at the top" i.e., the *glans penis* is growing bright red like an apple. But an apple tree does not "water" or "flood" the "garden" beneath it. In order to refer to an emission of semen, the poet must break the metaphor and no doubt remains as to what is intended sexually.[19]

Now, let us look at the "garden" metaphor in more detail: In the royal love song "Vigorously he sprouted," one can see the germination of a metaphor dealing with the vulva.[20] In line one "lettuce" can be understood as a female's *labia majora* and *labia minora.* In the next line the words "shaded grove" or "black garden" work to crystallize the vulva image further; it can now be seen as nothing less than a reference to the pubic hair which surround the *labia.* Next, in line three, the poet uses the word "furrow" to accentuate the garden image, the image of the vulva, already "plowed." And finally, in the fifth line, "the apple tree

17 Kramer, *PAPS* 107:508–9; *ISET* 2.40 (Ni. 9846) and Ebeling, *KAR* 1158, ii. 52. Thorkild Jacobsen, trans., *The Harps That Once . . . : Sumerian Poetry in Translation* (New Haven: Yale Univ. Press, 1987) 94.

18 ^{ĝiš}ḫašḫur-àm sa_{12}-mà gurun il-la-mu $kiri_6$-àm a ba-an-dug_4 "did my (darling) apple tree bearing fruit at the top flood the garden." *UET* VI 121 / TCL XV 20. Thorkild Jacobsen, "Two *BAL-BAL-E* Dialogues," in John H. Marks and Robert M. Good, eds., *Love & Death in the Ancient Near East: Essays in Honor of Marvin H. Pope* (Guilford, Conn.: Four Quarters, 1987) 62, n. 29. B. Alster, "Marriage and Love in the Sumerian Love Songs," in M. E. Cohen, et al., *The Tablet and the Scroll* (Bethesda, Md.: CDL Press, 1993) 21b. Further, Yitschak Sefati, *Love Songs in Sumerian Literature* (Ramat Gan: Bar-Ilan Univ. Press, 1998) 167. Related is the image "apple in the wildwood" Cant 2:3 below, p. 7.

19 Perhaps the metaphor is *not* broken, however. One must consider the possiblity that the watering from the top of the tree could be the apples which fall to the ground beneath, i.e., the garden floor and impregnate the earth.

20 The writer here departs slightly from the details of Jacobsen's interpretation.

bearing fruit at the top" (the penis) "watered" (emitted semen into) the female's "garden" (the vestibule of the vagina).

THE EATING METAPHOR

Having examined "fruit" [*kuzbu/inbu*] and "garden" metaphors, we will examine "eating" as a sexual verb. In a Sumerian/Akkadian proverb, we find the idea of sexual eating in poetic parallelism:

40	[nu.um.me.d]a.ná al.peš$_4$.a.	*ina la na-ki-mi-i e-rat-me*
41	[en?.e.š]e nu.kú.da.a.ni	*ina la a-ka-li-me*
42	[a]l.kur$_4$.re.en.e.še	*ka-ab-rat*

40 "Can she be pregnant without having had sex?
41 Without having eaten
42 Can she be fat?"[21]

A further example from Gilgamesh should be considered as well. In the sixth tablet, Ishtar proposes marriage, or something like it, to the victorious hero Gilgamesh. After she asks him to "share his fruit" (line 8), he rejects her offer, spurns her, and recites the sad tale of her previous lovers who probably wish they had never met her. Finally he brings up her shameless pursuit of the family gardener, Ishallanu, throwing her *own* words of seduction in her face (Gilg VI 68–69):

Išullania kiššūtāki ī nīkul	O, my Išullānu, let me eat your strength,
qātka šūṣâmma luput ḫurdatni	Put forth your hand and touch our vulva!

Taking the infinitive "to eat" as a reference to penile/vaginal intercourse,[22] "strength" would quite naturally be understood as the phallus. The parallel term in the second stich confirms the suspicion. In a number of Near Eastern contexts "hand" is used as a euphemism or metaphor for the male member. The meaning of the passage would be:

> O, my Ishullanu, let me (my vagina) devour your penis,
> Thrust your erection against my vulva!

The better known metaphor "hand" confirms the contextual identification of the more unusual metaphor "strength."[23]

21 II *R* 16 40–42 See Lambert *BWL* 241 40–42 and R. Pfeiffer, "Akkadian Proverbs and Counsel," *ANET* 2, 425.

22 See note 34 below.

23 That *qātu* "hand" is a commonly recognized euphemism for a phallus can be seen from the follow-

Ancient Hebrew Sexual Fruit Metaphors

FRUIT/GARDEN IMAGES

In the Hebrew Bible, itself a product of ancient Near Eastern culture and sharing many literary and linguistic affinities with the literature cited above, we find some of the same sexual metaphors (Cant 2:3):[24]

כתפוח בעצי היער Like the apple in the wildwood,

כן דודי בין הבנים So is my love among boys.

בצלו חמדתי וישבתי In his shade I become sexually aroused; I crouch down

ופריו מתוק לחכי And his fruit is sweet to my taste.

Or could the passage be translated "his fruit is sweet in 'my mouth'"?[25] Here we see the apple tree representing the male lover, and his penis referred to as "fruit" calling to mind the words of the goddess Ishtar: "Come on, Gilgamesh, be my lover and grant me your fruit!"[26]

The notion of "giving one's fruit" is found as well in the Talmud. In *b.B.Qam.* 82a there is a list of seven decrees (תקנות) proclaimed by Ezra, the fourth of which states that garlic should be eaten on Fridays because of the law of עונה.[27] It's scriptural proof lies in Psalm 1:3, "who brings forth (literally 'gives') his fruit in its season."[28] According to R. Judah, this refers to "him who performs his marital duty every Friday night." The gemara continues, "Our Rabbis taught: Five

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ing examples. Cant 5:4: שלח יד "My love thrusts his 'hand' into the hole," i.e., he inserts his penis into her vagina. Also, an Arabic *wasf*: "I stretched out my hand to the guarded thing." (Stephan, "Modern Parallels," 251: Waṣf xiii 2b [Pope, *Song of Songs*, 60]). As early as the nineteenth century, scholars interpreted the word "hand" in Is 57:8–10 as "phallus." (NRSV: "you have gazed on their nakedness" with a footnote indicating "phallus.") The Ugaritic poem "Birth of the Beautiful Gods" (i 34–ii 1) also employs the word hand for penis: *yd.ỉl* occurs three times in the passage. Note *ảrk.yd.ỉl.kym* "El's penis is as long as the sea" (cf. Pope, *El in the Ugaritic Texts*, 35–42). See Pope, *Song of Songs*, commentary to 5:4 and further Edward Ullendorf, "The Bawdy Bible," *BSOAS* 42 (1979) 441. The unusual word for vulva, *ḫurdatu*, is derived from a text which uses the simile: "this date palm is like a vulva." See Maureen Gallery Kovacs, *The Gilgamesh Epic* (Stanford: Stanford Univ. Press, 1989) 53 n.5.

24 For חמדתי see M. Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (New York: Pardes, 1950) 475; also Ullendorf, "Bawdy Bible," 449 and Pope, *Song of Songs*, 371–73.

25 As in Cant 5:16 where חך is used similarly. See Pope, *Song of Songs*, 549.

26 See above, n.11.

27 The term עונה refers to the "duty of marriage," i.e., the frequency with which certain classes of men are required to have sexual relations with their wives.

28 אשר פריו יתן בעתו

things were said of garlic: It satiates, it keeps the body warm, it brightens up the face, it increases semen, and it kills parasites in the bowels. Some say that it fosters love and removes jealousy."[29] Those who are required to perform their marital duties every Friday night are scholars (תלמידי חכמים).[30]

The Mesopotamian lyrics found in the preceding section also bring to mind a passage from Canticles which employs the garden/vulva metaphor (4:12–13a):

גן נעול אחתי כלה	A *garden* locked is my sister bride,
גל נעול מעין חתום	A pool locked, a fountain sealed,
שלחיך פרדס רמונים	Your groove a pomegranate grove
עם פרי מגדים	with *fruits* delectable . . .

Reinforcing images abound in these two passages. The "locked garden" refers to the vulva/vaginal area of the female's body while the experience it promises her lover is to be found in the "delectable fruit" references in 13a. Having seen these images, it is a small step to understanding the שלחיך "groove" as the vagina as well.[31]

The Eating Metaphor

Having examined these few nouns pertaining to sexual metaphors, it remains to scrutinize a verb. The late, lamented Thorkild Jacobsen has commented on the use of love metaphors in his well known essay "Toward the Image of Tammuz":

> The experience of the delicious, the rapture of the sweet, appears superficially not unlike the experience of, and the rapture of, the more significant and profound fascination and captivation that is love. Why this should be we are unable to say, and we must content ourselves with pointing to the universal use of metaphors from the realm of eating and tasting for love, ranging from sexual "appetite" and "hunger" to the lover's desire to "eat" his beloved, and to his use of terms like sweet, delicious, honey.[32]

Keeping in mind the infinitive "to eat" as a metaphor in the language of love, we turn to Israelite wisdom literature. Proverbs 30:18–19 contains a riddle which

29 *B.B.Qam.* 82a:
ושיהו אוכלין שום בע״ש משום עונה דכתיב אשר פריו יתן בעתו וא״ר יהודה ואיתימא רב נחמן ואיתימא רב כהנא ואיתימא ר׳ יוחנן זה המשמש מטתו מע״ש לע״ש ת״ר חמשה דברים נאמרו בשום משביע ומשחין ומצהיל פנים ומרבה הזרע והורג כנים שבבני מעיים וי״א מכניס אהבה ומוציא את הקנאה

30 *B.Ketub.* 62b: עונה של תלמידי חכמים אימת אמר רב יהודה אמר שמואל מע״ש לע״ש

31 See Pope, *Song of Songs*, 490–91; Ullendorf, "Bawdy Bible," 449.

32 T. Jacobsen, *Toward the Image of Tammuz*, W. L. Moran, ed. (Cambridge, Mass.: Harvard Univ. Press, 1970) 79–80.

involves a comparison of four things: "the way of an eagle in the sky, the way of a serpent on a rock, the way of a ship on the high seas, and the way of a man with a maiden." It appears that in order to solve the riddle, one must find an element common to all four, i.e., what do the first three have in common with human sexual relations ("the way of a man with a maiden")? A clue is provided by the special case of "a serpent on a rock."The addition of solid rock to the picture suggests that a serpent slithering in sand would not qualify for inclusion in the riddle. And what is the distinction being made? A serpent on rock leaves no tracks! Neither does the eagle leave a trail in the sky and after a ship has cut through the sea, the water immediately closes up leaving no trace of the direction the vessel has taken. But what might this solution say about human sexual relations? A man and woman come together in clandestine illicit intercourse, part from each other and leave no clue as to what has occurred.[33] All well and good, but someone may protest: Maybe you are right but where is your proof that this is the intent of the proverb? Prov 30:20 not only provides the clue to the riddle but contains the very metaphor in which we are interested:

כן דרך אשה מנאפת This is the way of an adulteress:
אכלה ומחתה פיה she eats, and wipes her mouth,
ואמרה לא-פעלתי און and says, "I have done no wrong."

The metaphors are clearly recognizable since we encounter the issue of adultery in the first line. The adulterous woman engages in sexual intercourse ("eats"), douches her vagina ("wipes her mouth") and suggests that no one will be the wiser! It is quite clear that the biblical writer understands the verb "to eat"as ordinary coitus as opposed to the modern usages implying oral sex.[34]

Now that we have examined several metaphors drawn from orchards, gardens, and their products as well as the image of sexual eating, please turn to Cant 4:16b:

33 Some wags may wish to point out one obvious biological liability which might well be a result of cohabitation.

34 The metaphor "eating" which in this passage indicates normal sexual congress should not be confused with American slang "eating" for *fellatio* or *cunnilingus*. See further Ullendorf, "Bawdy Bible," 445. Ullendorf has also suggested (449–50) that Cant 5:1 uses "eating" similarly אכלו רעים שתו ושכרו דודים "Eat, friends, drink, be drunk with love!" The expression "to eat bread/food" is employed similarly in Gen 39:5–6 in the story of Joseph and Potiphar's wife: "So he left all that he had in Joseph's charge; and, with him there, he had no concern for anything except the *bread which he ate*." Further, when Jethro tells his daughters to invite Moses for a meal, more than breaking bread is implied: "And he said to his daughters, 'Now where is he? Why have you left the fellow? Summon him *that he might eat bread*.'" I.e., "perhaps we can make a marriage" (Exod 2:20). See also Michael V. Fox, *The Song of Songs and the Ancient Egyptian Love Songs* (Madison: Univ. of Wisconsin Press, 1985) 138–39.

יבא דודי לגנו Let my love enter his garden.

ויאכל פרי מגדיו Let him eat its delectable fruits.

On the assumption that these two lines are parallel poetic stichs, we will unpack the metaphors in an attempt to establish the basic meaning of the passage. The female here invites her lover to "enter his garden"; since garden is well established as "vulva" and the verb "to enter" has a straightforward sexual connotation the phrase means "to initiate coitus with her." We expect the parallel stich to speak to us in a synonymous image. And so, since "eating" is now established as sexual intercourse and "fruit" can serve as a metaphor for the sexual organ, he has been invited "to enjoy making love to her."

Sexual Fruit Metaphors in the Garden Narrative

From the overt eroticism of Canticles, we turn to the more covert of Genesis. Listen to a phrase based upon the Eden narrative: "eating from the fruit of the tree in the midst of the garden" (אכל מפרי העץ אשר בתוך-הגן). In the early verses of the third chapter of Genesis, the images resonate clearly: "garden," "fruit," "trees," "eating." To each of these we have given some attention and each is laden with erotic connotations. I am suggesting that there *is* a sexual element in the morphological structure of the Eden narrative. Is it possible that "eating fruit from the tree in the garden" implies sexual congress between Adam and Eve?

At this point the metaphors either communicate eroticism or they do not. So, apart from the metaphors involved, what is to be learned from the structure of the passage? Gen 2:25 provides the transition from the second to the third chapter:

ויהיו שניהם ערומים האדם ואשתו And the man and his wife were both naked,
ולא יתבששו and were not ashamed.

This transition verse, in conjunction with 3:7, form an *inclusio* marking a separate unit:[35]

ותפקחנה עיני שניהם Then the eyes of both were opened,
וידעו כי עירמם הם and they knew that they were naked . . .

Gen 2:25 speaks of child-like innocence: they were naked but were lacking self-consciousness pertaining to the meaning of the condition.[36] Yet when we read Gen 3:7, we are aware that something has changed, viz., no longer are they in

35 See Phyllis Trible, *God and the Rhetoric of Sexuality* (Philadelphia: Fortress, 1978) 105 and Claus Westermann, *Genesis 1–11: A Commentary*, J. J. Scullion, trans. (Minneapolis: Augsburg, 1984) 234–35.

36 See especially James Barr, *The Garden of Eden and the Hope of Immortality* (Minneapolis: Fortress, 1991) 64–65. Also Westermann, *Genesis 1–11*, 235–36 and Bernard Batto, *Slaying the Dragon: Mythmak-*

"the state of unaffected innocence in which (they) were not yet conscious of their nakedness."[37] Whereas in the first, there is no awareness of sexuality, in the second, they are cognizant of their sexual nature. The solitary narrative act in the interim is the "eating of fruit." They were in a state of sexual innocence, they ate fruit, and all of a sudden were aware of their sexuality. So we see that not only do the images with which we have dealt throughout the paper speak to us of erotic themes in the Eden story, but also the very structure of the narrative itself suggests that "the transgression," or the "eating of the fruit," is the sex act and nothing less.[38]

Early Interpreters of Genesis 3

The history of early exegesis on Genesis 3 is most interesting and separates quite consistently along sectarian lines. Rabbinic Judaism freely admits that Adam and Eve had sex before leaving Eden, while some Christian fathers seem to have a great stake in opposing the idea. The differing attitudes have to do with each group's position on intercourse generally. During the early centuries CE, Jews understood the theological concept of "holiness" to refer to the state of marriage and the begetting of children, while many Christians believed that "holiness"

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ing in the Biblical Tradition (Louisville: Westminster/John Knox, 1992) 54–55. According to C. Carmichael, "naked and unashamed" means that they are in an "undifferentiated state"; like the animals, man and woman eat, drink and are naked, without shame. They are not marked off from the animals until they exhibit the civilizing influence of shame (Calum M. Carmichael, "The Paradise Myth: Interpreting without Jewish or Christian Spectacles," in P. Morris and D. Sawyer, eds., *A Walk in the Garden: Biblical, Iconographical and Literary Images of Eden* [Sheffield: JSOT Press, 1992] 48, 52).

37 Westermann, *Genesis 1–11*, 251. Note that Adam and Eve become aware of their *nakedness* (*ʿărûmmîm*) which, in addition to its assonance, is semantically similar to the *awareness* (*ʿārûm*) of the serpent in 3:1 (Carmichael, "The Paradise Myth," 49).

38 Since the research for this manuscript was completed, J. Milgrom ("Sex and Wisdom: What the Garden of Eden Story Is Saying," BRev 10:6 [December 1994] 21) has come to the very same conclusion. After calling attention to the implications of verses 2:25 and 3:7 when read together, he says, "The Bible thus explicitly informs us that after eating the forbidden fruit, they were ashamed of their nakedness. Does this not tell us, through euphemistic language, that Adam and Eve had sex?" See also J. Barr, *The Garden of Eden*, 66–69. The cuneiform text BM23631, treated by Kramer in *Or NS* 54 (1985) under the title "Bread for Enlil, Sex for Inanna," is, like most Sumerian literary texts, complex and ambiguous. As described by G. Leick, *A Dictionary of Near Eastern Mythology* (London: Routledge, 1991) 91, it is an etiological myth explaining just how Inanna became the goddess of sexual love. Inanna is in a state of "innocence" concerning the secrets of sexuality. She asks her brother Utu to allow her to travel to a place where trees and plants are growing. When she arrives and eats certain of the herbs and other fruits, she presumably gains the knowledge which she desires.

> "At the mountain of herbs, at the mountain of cedars,
> At the mountain of cedars, at the mountain of ḫašur-trees,
> That which exists in the mountain, that, let us eat." (141–45)

Leick points out the similarity here to the themes of Genesis 3.

demanded continence in marriage.[39] So Jews believed that sex was good and God wanted them to have children while some Christians were convinced of precisely the opposite. Both groups sought to establish their particular belief on the basis of a close reading of the Eden narrative. These Christians aligned themselves with an exegetical tradition based upon 2 *Bar.* 56:5–6: "For when (Adam) transgressed, untimely death appeared, . . . the conception of children was brought about and the passion of parents roused."[40] The rabbis assumed rather casually that Adam and Eve had intercourse before the expulsion from the garden.[41] Although they never defend the idea nor seek to justify it, they probably fall into the line of thinking that derives from *Jub.* 3:2–6: "And [God] brought her to him and *he knew her* and said to her, 'This is now bone of my bones and flesh of my flesh.'" Notice, however, that in this case intercourse takes place *before* they entered the garden![42] Many church fathers, on the other hand, find marriage, intercourse, and paradise incompatible.[43] Tatian, for example, believed that Adam and Eve were created as holy beings, i.e., non-animals, who possessed the spirit of God and were destined to live forever. They abandoned their marriage to the spirit of God and entered into a sexual relationship with each other which God did not intend so that all humans have now lost the original divinely intended non-animal nature. Tatian's disciples even said that Eve lost the spirit of God in the sexual act which she had been taught by the serpent who introduced to her the ways of the animal world.[44]

If our suggestion (that "eating fruit" in Gen 3:6 refers to intercourse) is correct, then on the surface, it rather ironically supports the exegetical tradition of those Christian fathers like Tatian and his followers. That is to say, since we believe that the "eating of fruit" refers metaphorically to sexual intercourse, the context

39 See Aphrahat, *Demonstrations, Patrologia Syriaca*, lines 841.3–9 in G. Anderson, "Celibacy or Consummation in the Garden? Reflections on Early Jewish and Christian Interpretations of the Garden of Eden," *HTR* 82 (1989) 122.

40 H. F. D. Sparks, ed., *The Apocryphal OT* (London/New York: Oxford Univ. Press, 1984) 876.

41 See *Gen. Rab.* 19.3, 18.6 et al. (Anderson, "Celibacy," 124).

42 Anderson, "Celibacy," 128–29.

43 E.g., Gregory of Nyssa, Ambrose, and Jerome. See Peter Brown, *The Body and Society: Men, Women and Sexual Renunciation in Early Christianity* (New York: Columbia Univ. Press, 1988) 399.

44 Brown, *The Body and Society*, 93 f. There is a second century CE Greek allegory which may have influenced Tatian. According to that text, when the elephant, a beast which has no natural desire for sex, decides to have a family, a pair travels east toward Paradise. After secluding themselves in the garden, the female eats first from the mandrake tree, persuades the male to do the same, whereupon they engage in sexual intercourse. The commentary explains the allegory as referring to Adam and Eve. See D. Rottzoll, ". . . ihr werdet sein wie Gott, indem ihr ›Gut und Böse‹ kennt" *ZAW* 102 (1990) 385–91. We do not wish to suggest that all early Christians took these extreme positions. See, e.g., the more positive sexual attitude of Augustine which is consonant with the rabbinic view in Brown, *The Body and Society*, 400–403; also David G. Hunter, "*On the Sin of Adam and Eve*: a little-known Defense of Marriage and Childbearing by Ambrosiaster," *HTR* 82 (1989) 283–99.

of Genesis 3 clearly establishes that act as a transgression and, therefore, sexual intercourse as a sin. This notion will not catch on quickly in the modern world! On the other hand, the rabbis take a much more positive attitude with regard to procreation. And why shouldn't they? After all, begetting children is the very first of the six hundred thirteen commandments in the Torah.[45] So if God said, "Be fruitful, multiply, fill the earth!" why would he cast his first beloved children out of paradise for merely obeying orders? In light of the rabbinic attitudes surveyed above, those of the more moderate church fathers, and the sexual mores of most of the modern world, how is it reasonable to suggest that Adam and Eve lost paradise as a result of intercourse, an act which the biblical narrator considered a sin?

Thematic Analysis: The Ascent of Knowledge

First of all, the stories of early Genesis are composed of very complex layers of tradition. It is not incumbent on anyone to demonstrate that a particular interpretation, to be judged reasonable, must be "consistent" with everything in its larger context. Phyllis Trible, in writing on Genesis 2–3, said

> If the story is simple, it is not, at the same time, neat and tidy. Abrupt, terse, elliptic, tentative, its language carries a plurality of meanings. From beginning to end the narrative is riddled with ambiguity. Embodying tension, connotations, hints and guesses, it compels multiple interpretations, as centuries of exegesis amply demonstrate.[46]

Nevertheless, I want to argue for the reasonableness of sexual intercourse as the act which lead to the expulsion from the garden.[47] According to Gen 3:22,[48] the

45 פרו ורבו ומלאו את-הארץ "Be fruitful and multiply, and fill the earth . . ." Gen 1:28.

46 Trible, *God and the Rhetoric of Sexuality*, 72.

47 One might simply appeal to the results of source criticism and argue that the commandment to be "fruitful" is from the "P" creation story of Gen 1 and the injunction to abstain is from a separate source, i.e., "J" from Gen 2:4b–3:24. If P says "Be fruitful . . ." and J casts aspersions on sexual activity, why should we demand that separate traditions agree? (For more details, see Milgrom, "Sex and Wisdom," 21). I prefer, however, that my analysis not rest upon one's acceptance or rejection of source critical theory.

48 Gen 3:22 is a puzzling verse. Because of the fragmentary nature of the final clause of the verse (ועתה פן-ישלח ידו ולקח גם מעץ החיים ואכל וחי לעלם "And now, lest he stretch forth his hand and take also from the tree of life and eat and live forever —"), i.e., because it is a fragment or dependent clause without normal attachment to an independent clause (see Waltke and O'Connor, *An Introduction to Biblical Hebrew Syntax* [Winona Lake: Eisenbrauns, 1990] §39.3.3a), it may be a well known quotation which has no need for completion having achieved proverbial status in the cultural tradition. In any event, its intended completion is obvious from the context, viz., "we had better get them out of the garden." However, it does not appear to be a quotation from an Israelite

humans were banished from the garden because they *knew* too much. The sin in question is hubris, desiring to be like gods, knowing everything ("they have become like one of us").[49] The Eden story *is* complex and part of its thematics is embedded in the Near Eastern tradition of the "ascent of knowledge," the story of how we progress from our "creaturely" state to our "human" state and ultimately to our status as fully "civilized" beings.[50] The biblical narrator understands what happened in the Garden as progress; the man and the woman have become clever [השכיל]. The statement "The man has become like one of us" suggests ascent rather than descent, i.e., a "fall."[51] They have progressed by eating fruit. Similar to the change from childhood to the adult state, Adam and Eve microcosmically represent humankind progressing toward complete civilization.[52] In Eden they were childlike and innocent, hardly fit for the world outside

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source based upon monotheistic assumptions. Notice that the garden theme of "wisdom" and "immortality" is encapsulated in the verse. Rather than speaking of the relationship of human to divine in biblical terms (e.g., the complex notion of *imago dei* found in the other creation story of Genesis 1), this theme is drawn from a *Mesopotamian* literary topos (compare, e. g., the description of the man Adapa as favored by the divine Ea: "To him he gave wisdom, but did not give eternal life" (S. Dalley, *Myths from Mesopotamia* [Oxford: Oxford Univ. Press, 1989] 182). Further, the tone of the divine voice in 3:22 is that of a "threatened adversary" more typical of Mesopotamian mythological divine/human relations than of man and Yahweh in the Hebrew Bible (see as well, Gen 11:6–7 where the same phenomenon occurs). And finally, in the context as described, the plural pronoun can signify polytheism: כאחד ממנו "like one of us."

49 I understand "knowledge of good and evil" as a merism meaning "knowledge of everything from good to evil," i.e., everything." See, e.g., 2 Sam 13:22: ולא-דבר אבשלום עם-אמנון למרע ועד-טוב "But Absalom spoke to Amnon neither good nor bad," i.e., he spoke to him *not at all*. See W. Malcolm Clark, "The Legal Background to the Yahwist's Use of 'Good and Evil' in Gen 2–3," *JBL* 88 (1969) 267–78; Howard N. Wallace, *The Eden Narrative*, HSM 32 (Cambridge: Harvard Univ. Press, 1985) 128–29; Robert A. Oden, Jr., "Divine Aspirations in Atrahasis and in Genesis 1–11," *ZAW* 93 (1981) 212–13; Rainer Albertz, "'Ihr werdet sein wie Gott' (Gen 3,5)," in F. Crüsemann, ed., *"Was ist der Mensch . . . ?": Beiträge zur Anthropologie des Alten Testaments* (München: Kaiser, 1992) 14, n.13. For a new and very interesting view of the meaning of "knowing good and evil," see Milgrom, "Sex and Wisdom," 21. Milgrom, on the basis of 2 Sam 19:36 and Deut 1:39, makes an excellent case for "knowing the difference between good and evil" as biblical code for sexual experience itself.

50 The theme of our creatureliness begins in the narrative of chapter two. In vs.7, God forms the "human" (אדם) from the "ground" (אדמה) and the creature becomes a "living being" (נפש חיה). Then in vs. 19, Yahweh, using the same substance as before, "ground" (אדמה), forms animals and birds to whom the narrator also refers as "living beings" (נפש חיה). Both the human and the animal, created out of the earth, are designated "living beings" (נפש חיה). Yet one ascends over the other as Yahweh gives the human responsibility for the taxonomy of the animal kingdom. Adam participates in the process of creation when he gives the beasts names (see G. von Rad, *Old Testament Theology* [2 vols.; New York: Harper and Row, 1965] 2:81). In so doing, he begins to move away from his beastliness into his humanity.

51 See Carmichael, "The Paradise Myth," 47, 53. As well, Carmichael connects man's desire for knowledge and his desire for a woman with the wisdom tradition in Prov 30:18–20 (p.50).

52 Westermann, *Genesis 1–11*, 251.

paradise. Then they ate fruit, i.e., they "knew" each other sexually, thus beginning the "ascent of knowledge" which led them to make clothes for themselves, a further sign of their civilization. Now they were ready for life in the world beyond Eden. These themes continue in chapter four with the recapitulation of the theme, "ascent of knowledge": "Then the man *knew* Eve his wife and she conceived and bore Cain . . ." (Gen 4:1); and in verse 17: "Cain *knew* his wife and she conceived and bore Enoch; and he built a city . . ." So the ascent of knowledge continues as humans acquire wisdom, expand their culture, and eventually produce an urban civilization.[53]

Gilgamesh, Enkidu and the Ascent of Knowledge

Similar themes are found in the Epic of Gilgamesh.[54] In the first tablet of the epic, the gods create Enkidu, a playmate for Gilgamesh equal to his strength, and place him in the grassy plains far from urban culture and civilization. He is a man of nature as opposed to Gilgamesh who lives within the walls of human culture. And, as a natural man, Enkidu is sexually innocent. The literary signs of his sexual innocence are his acceptance by and communication with a herd of gazelles as well as the physical strength and speed necessary to roam with them.[55] However, Enkidu *is* human, capable of reasoning beyond the gazelles, and so he teaches them to avoid the trapper's pits and snares. The trapper suffers economic loss and seeks a solution to his problem. His father advises that he consult with Gilgamesh, king of Uruk, who counsels the trapper to hire a prostitute to seduce Enkidu.

> Go, trapper, bring the harlot, Shamhat, with you.
> When the animals are drinking at the water place
> have her take off her robe and expose her sex.
> When he sees her he will draw near to her,
> and his animals, who grew up in his wilderness,
> will be alien to him.[56]

53 That difficulty in childbirth (Gen 3:16) is also a sign of inculturation has been pointed out by Tikva Frymer-Kensky, *In the Wake of the Goddesses: Women, Culture and the Biblical Transformation of Pagan Myth* (New York: The Free Press, 1992) 23.

54 For an excellent translation, see Maureen Gallery Kovacs, *The Epic of Gilgamesh* (Stanford: Stanford Univ. Press, 1989) 5–10. See especially the analysis of Foster, "Gilgamesh: Sex, Love . . . ," 21–42; also Foster, *Bi Or* 36 (1979) 187b and Batto, *Slaying the Dragon*, 55–56. For a Jungian interpretation of Enkidu's sexual encounter, see Rivkah Schärf Kluger, *The Archetypal Significance of Gilgamesh: A Modern Ancient Hero* (Einsiedeln, Switz.: Daimon, 1991) 40–51.

55 Note the similarities between Enkidu and Tarzan. Tarzan also communicates with the animals of his jungle, is stronger than the ordinary man, and is sexually innocent (remember "boy" was the sole survivor of a plane crash according to the Hollywood version).

56 Kovacs, *Gilgamesh*, 8.

The trapper and the prostitute wait for Enkidu and the gazelles to appear at the watering hole. Upon their arrival, the trapper encourages the woman to do the task for which she was hired:

> That is he, Shamhat, free your breasts.
> Spread your legs that he might take your charms.
> Do not shy away – take his virility![57]

So the woman seductively exposed herself to the wild fellow who fell for her act totally and exuberantly. He made love to her, groaning lustfully, and maintaining his erection for six days and seven nights![58] When he had had his fill of her charms, he returned to his gazelles, but they did not recognize him.[59] They darted off into the grassy plains with Enkidu desperately trying to follow, but he "was diminished, his running was not as before."[60] Enkidu had lost his natural life of innocence with the animals. Now he is less creaturely and more human. He had achieved a new level of understanding through carnal knowledge of the prostitute. She spoke to him:

> You are beautiful, Enkidu, you are become like a god.
> Why do you gallop around the wilderness with the wild beasts?
> Come, let me bring you into Uruk-Haven,
> to the Holy Temple, the residence of Anu and Ishtar,
> the place of Gilgamesh, who is wise to perfection,
> but who struts his power over the people like a wild bull.[61]

Enkidu now has knowledge and understanding, he has "become like a god." How similar the rhetoric here to that of Gen 3:22: The pair had "become like one of us (gods), knowing good and evil."

Enkidu then leaves his life in nature for a new life in culture. The prostitute

57 8) *annû šū* ^{f}*Šamḫat rummî kirimmiki* 9) *ūrki petêma kuzubki lilqe* 10) *e tašḫuti leqē napissu* Thompson Gilg. pl. 4 8–10; S. Parpola, *The Standard Babylonian Epic of Gilgamesh*, SAACT 1 (Helsinki: Neo-Assyrian Text Corpus Project, 1997) 73, lines 163–65. The word *napīšu*, "penis," is found in the Ugaritic epic of *Danel* as "soul/penis" and also in the biblical Prov 19:2 where *nefeš* and *raglayim*, "feet," both have sexual meaning (M. H. Pope, "Euphemism and Dysphemism in the Bible," *ABD* 1:721a).

58 *šeššet urri sebe mušāte Enkidu tebima* ^{f}*Šamḫat irḫi* GE I iv 21 (Thompson Gilg. pl. 4 21); Parpola, *Epic of Gilg.*, 73, line 177.

59 Lines 178–80. He smells of humans according to Frymer-Kensky, *Wake of the Goddesses*, 33; he cannot run so swiftly having exhausted himself in his epic length tryst. Note that the underlying premise, loss of physical strength due to excessive sexual activity, is found also in the story of Samson in the Philistine brothel, Judg 16:1–3.

60 Lines 181–83. Kovacs, *Gilgamesh*, 9.

61 Lines 188–93. Kovacs, *Gilgamesh*, 9.

introduces him to civilization by first clothing him with some of her wardrobe.[62] Then he learns to drink beer and eat bread in the city and, advancing further in human culture, he must find a job and work to earn his living –

> Enkidu scattered the wolves, he chased away the lions.
> The herders could lie down in peace,
> for Enkidu was their watchman.[63]

When we first encounter Enkidu, like Adam, he is in the company of beasts having as yet no knowledge of a woman. Both Adam and Enkidu experience the ascent of knowledge through seduction and *sexual* knowing.[64] The experience results in wisdom, but it is bought at a great price: Enkidu may no longer enjoy communication with his gazelles and, as well, the days of Eden's talking serpent are brought to an end. Enkidu's and Adam's lives of innocence are lost to the past and there lies ahead for the both of them a painful and difficult road as each leaves the simplicity of nature for the ambiguous complexities of human culture.

When considered in its larger Near Eastern literary context the theme of the "ascent of knowledge" is not so negative as the notion of "original sin" or a "fall" and leaving the garden may be viewed as difficult and necessary, but generally positive.[65]

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62 See Foster, "Gilgamesh: Sex, Love . . . ," 29. Cf. with the story of Uttu the weaver in the Sumerian myth of Enki and Ninhursag. See, also, Frymer-Kensky, *Wake of the Goddesses*, 23, 32–33. Notice how Shamhat behaves as a mother figure while Enkidu, the "child" who is just beginning his ascent of knowledge and his entry to the man's world, passively takes her instruction, trusting her in wordless simplicity (see R. Harris, "Images of Women in the Gilgamesh Epic," in T. Abusch, J. Huehnergard, and P. Steinkeller, eds., *Lingering Over Words: Studies in Ancient Near Eastern Literature in Honor of William L. Moran* [Atlanta: Scholars Press, 1990] 224, n. 23).

63 Tablet II, lines 54–56; Kovacs, *Gilgamesh*, 15–16.

64 For a more detailed analysis of the love poetics and thematics of the Gilgamesh Epic, see the excellent analysis of Foster, "Gilgamesh: Sex, Love . . . ," 21–42.

65 Albertz, "'Ihr werdet sein wie Gott,'" 11–27.

The Teacher of Righteousness is Alive, Awaiting the Messiah

האסף in CD as Allusion to the Siniatic and Damascene Covenants

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The Moreh Zedek, commonly translated as the Teacher of Righteousness, should perhaps be better rendered as the True Guide. Two works, The Damascus Cocument and the Commentary on Habakkuk, make him the leader of the sect.

But, was he a historical figure as is generally supposed, or was he a figure of the future, a forerunner of the Messiah? Whichever view one accepts determines the understanding of the word *heasef* in CD 19:35 and 20:14. If historical, *heasef* records his death prior to the coming of the Messiah. In other words at the time of the composition of this document the Teacher was already dead, but the Messiah had not as yet arrived.

By contrast, this paper argues that the Teacher, whom scholars have been unable to identify, is not a figure of history. The word *heasef* does not refer to his death, but to his presiding over an assembly that will take place in the land of Damascus when the *berit chadashah*, the new covenant, will be established prior to the coming of the Messiah. Therefore the Dead Sea Scrolls do not identify him by name, only by a sobriquet.

This paper revisits the discussion as to the meaning of the word האסף in CD 19:35 and 20:14. For nearly a century, standard scholarship has rendered the word as "ingathering," a euphemism for the death of the Unique Teacher,[1] a shadowy

1 The manuscript of CD shows some hesitation on the part of the copyist in lines 19:35–20:1. At the conclusion of p.19, he has written יורד ~~מורדה~~ מורה היחיד, striking out the first two words; continuing on the top of p.20, the first word has been obliterated but the phrase *Moreh Ha Yachid* then appears. There is no such confusion in 20:14, where the phrase used is clearly יורה היחיד. It could be then that, despite reading the figure as מורה for consistency's sake, we should read it יורה. Note also that Elisha Qimron and others read the second word as יָחִד instead of יחיד, which would render this as "Teacher of the Community." See Magen Broshi, ed., *The Damascus Document Reconsidered* (Jerusalem: The Israel Exploration Society, The Shrine of the Book, Israel Museum, 1992). This point is significant since, except for the proposed emendations, the word יחד is not found in the Damascus Document. I agree with those who reject the emendation of יחיד to יחד, including Baumgarten and Charlesworth. See Joseph M. Baumgarten, *Discoveries in the Judaean Desert XVIII — Qumran Cave 4 XII The Damascus Document (4Q266–273)* (Oxford: Clarendon Press, 1996); James H. Charlesworth, ed., *The Dead Sea Scrolls: Hebrew, Aramaic, and Greek Texts with*

figure presumed to be either the founder or an early and important leader of the sect. All translators and commentators from Schechter to the present follow this understanding.[2] The importance of these two passages and their references to האסף must not be underestimated, for many scholars use them as a way to date the Damascus Document. An assumption that the author composed this book shortly after the death of the Unique Teacher prompts Hartmut Stegemann, for instance, to date the composition of CD to 100 B.C.E.[3]

In 1988,[4] I argued that a more appropriate translation of האסף would be "gathering," in reference to an assembly of the people called by this Unique Teacher. In response, Joseph A. Fitzmyer defended the standard translation.[5] These discus-

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English Translations, Volume 2: Damascus Document, War Scroll, and Related Documents (Tübingen: J.C.B. Mohr/Louisville: Westminster John Knox Press, 1995).

2 See Solomon Schechter, *Documents of Jewish Sectaries. 1. Fragments of a Zadokite Document* (Cambridge, 1910). Also see the following translations: Chaim Rabin, ed. and trans., *The Zadokite Documents, I The Admonition, II The Laws* (2nd rev. ed.; Oxford: Clarendon Press, 1958); Michael Wise, Martin Abegg, Jr., and Edward Cook, trans. and commentary, *The Dead Sea Scrolls: A New Translation* (San Francisco: Harper, 1996); and Baumgarten and Charlesworth as noted above.

3 Stegemann writes: "The Damascus Document was composed during the period between the death of the Teacher of Righteousness in the past and the future extermination of the wicked in the final judgement, which should take place 'about forty years' after the Teacher's death; see CD 20:13–15. Cf. Hartmut Stegemann, *The Library of Qumran* (Grand Rapids, Mich.: W.B. Eerdmans/Leiden: Brill Academic Publishers, 1998) 116–18, 123–25, 128f. and 132f. The date of the composition of the Damascus Document was about 100 B.C.E." See Stegemann, "Towards Physical Reconstruction of the Qumran Damascus Document Scrolls," in Joseph M. Baumgarten, Esther G. Chazon, and Avital Pinnick, eds., *The Damascus Document: A Centennial of Discovery* (Leiden: Brill, 2000) 200. See also Stegemann's *Die Essener, Qumran, Johannes der Tautfer und Jesus* (Freiburg: Herder, 1996) 166.

4 Ben Zion Wacholder, "Does Qumran Record the Death of the *Moreh*? The Meaning of *he'aseph* in *Damascus Covenant* XIX, 35, XX, 14," *RevQ* 13:49–52 (1988) 323–30.

5 Taking issue with me, Fitzmyer ("The Gathering In of the Community's Teacher," *Maarav* 8 [1992]) noted that both Isa 57:1 and Num 20:26 use the *nifal* of אסף without an accompanying phrase such as וימת or וגוע, thus hoping to puncture my theory about the Scriptural use of האסף as assembly as opposed to its use as death. I respond that both verses actually support my proposition. In Isa 57:1, אבד corresponds to וגוע, the protasis that prepares the reader for נאספים, which is the apodosis. I would point out, however, that Isaiah 57:1 is different contextually from the models in the Pentateuch, because we do not have here a particular figure whose biography we have dealt with in previous chapters. In addition, the phraseology for death found in reference to the patriarchs is unique to the Pentateuch and is not used for other figures, such as Joshua and David. As for Num 20:26, I suggest that Scripture refers to death as a process and not an event. יאסף refers to Aaron's physical condition as he is dying, but the sentence must conclude with ומת שם to provide a reference to death itself. For other responses to my earlier publications on this issue, see Håkan Ulfgard, "The Teacher of Righteousness, the History of the Qumran Community, and Our Understanding of the Jesus Movement: Texts, Theories, and Trajectories," in Frederick H. Cryer and Thomas L. Thompson, eds., *Qumran between the Old and New Testaments* (Sheffield, England: Sheffield Academic Press, 1998) 321. See also Hanan Eshel, "The Meaning and Significance of CD 20:13–15," in Donald W. Parry and Eugene Ulrich, eds., *The Provo International Conference on the Dead Sea Scrolls: Technological Innovations, New Texts, and Reformulated Issues* (Leiden: Brill, 1999) 330ff.

sions revolved around grammatical issues. Without rehashing the old arguments, this paper presents new evidence in support of rendering האסף as "assembly" on the basis of context as well as its coherence with the structure, content, and purpose of the Damascus Document. I shall show that, not only does האסף refer to the gathering of an assembly by the Unique Teacher, but that the author's description of the assembly serves a dual purpose: 1. To bring to mind the "old" covenant of Sinai when Israel received the Decalogue, known in CD as *berit rishonim*, the "covenant of the early ones"; and 2. To connect Sinai with the "new covenant," *berit hachadashah*, a new body of law to be undertaken by the Unique Teacher and his followers in preparation for the Messianic Age.

The Assembly of the Teacher

As mentioned above, this argument does not rest merely on grammatical points. Nevertheless, it is important to see first how האסף as it appears in CD relates to its use in Scripture. We begin by looking at CD 19:33–20:1. The significant text reads:

כן כל האנשים אשר באו בברית
החדשה בארץ דמשק ושבו ויבגדו ויסורו מבאר מים החיים
לא יחשבו בסוד עם ובכתבם לא יכתבו מיום האסף יוד ~~מורה~~
( ) מורה היחיד עד עמוד משיח מאהרן ומישראל

Joseph M. Baumgarten, in the 1995 translation,[6] translates this as follows:

> Thus all the men who entered the new covenant in the land of Damascus and returned and betrayed and departed from the well of living water will not be accounted among the council of the people; and when (the latter) are written, they *will not be written* from the day the Unique Teacher *was gathered* in until there arises the Messiah from Aaron and from Israel.

The second significant section of text is CD 20:13–15:

ומיום האסף יורה יחיד עד תם כל אנשי המלחמה אשר שבו
עם איש הכזב כשנים ארבעים:

Again, we have Baumgarten's translation as follows:

> And from the day the Unique Teacher *was gathered in* until the end of all the men of war who turned away from the Man of the Lie there *will be* about forty years.

6 Charlesworth, *The Dead Sea Scrolls*, 33–35.

As previously noted, Baumgarten follows scholarly convention in understanding the verb האסף as meaning "ingathering," a euphemism for death. At first sight it seems reasonable to accept this translation: While this verb in its various permutations overwhelmingly refers to the convocation of an assembly in Scripture, seven Pentateuchal references do use the *nifal* form in their accounts of the deaths of six early Israel figures:[7]

ויגוע וימת אברהם בשיבה טובה זקן ושבע ויאסף אל-עמיו

Then Abraham expired and died in a good old age, an old man, full of years, and he was gathered to his people (Genesis 25:8).

ואלה שני חיי ישמעאל מאת שנה ושלשים שנה ושבע שנים
ויגוע וימת ויאסף אל-עמיו

These are the years of Yishmael's life: One hundred years and thirty years and seven years. And he expired and he died, and he was gathered to his people (Gen 25:17).

ויגוע יצחק וימת ויאסף אל-עמיו זקן ושבע ימים
ויקברו אתו עשו ויעקב בניו

Then Isaac expired and died, and he was gathered to his people, being old and full of days. And his sons Esau and Jacob buried him (Gen 35:29).

ויכל יעקב לצות את-בניו ויאסף רגליו אל-המטה
ויגוע ויאסף אל-עמיו

And when Jacob had finished commanding his sons, he gathered in his legs upon the bed and he expired, and he was gathered to his people (Gen 49:33).

יאסף אהרן אל-עמיו כי לא יבא אל-הארץ אשר נתתי
לבני ישראל על אשר-מריתם את-פי למי מריבה

Aaron shall be gathered to his people, for he shall not come into the land which I have given to the children of Israel on account of your rebellion against my word at the waters of Merivah (Numbers 20:24).

וראיתה אתה ונאספת אל-עמיך גם-אתה כאשר נאסף אהרן אחיך

7 See n.5, above.

> Now that you have seen it, you to shall indeed be gathered to your people just as your brother Aaron died on Mount Hor and was gathered to his people (Num 27:13).[8]
>
> ומת בהר אשר אתה עלה שמה והאסף אל-עמיך
> כאשר-מת אהרן אחיך בהר ההר ויאסף אל-עמיו
>
> You shall die upon the mountain where you have ascended, and you shall be gathered to your people just as your brother Aaron died on Mount Hor and was gathered to his people (Deuteronomy 32:50).

It would be pointless, therefore, to assert that האסף is not part of these accounts mentioning death; this is a point we concede. But a closer look at these references shows that האסף is associated with death in the Torah only in a special context and within a special formula. First, in each of these cases האסף is followed by the phrase אל עמיך or אל עמיו, "to your people" or "to his people." In addition, the Genesis references all use it in conjunction with the formula וַיִּגְוַע, "and he expired," either by itself or, more frequently, in conjunction with וַיָּמָת, "and he died,"[9] indicating that האסף alone would not denote death. The use of several sequential verbs in each instance suggests that Scripture understands death as a *process*, not as an event, and האסף is employed to "set" or "place" the patriarch with his people. It refers to one part of the process of dying but not to death itself, which is described by וימת and/or ויגוע. Nowhere in any of these Pentateuchal passages referring to the patriarchs, then, does האסף by itself mean death.

In addition, in not one of these Scriptural references to death does האסף appear in the same sentence construction as it does in CD. That is, האסף in Scripture is always an apodosis, a concluding phrase, since burial is an ultimate act; no other event is predicated on it. In sharp contrast, האסף in CD appears as מיום האסף(ו), a protasis, an event on which later events are dependent. Remarkably, CD 20:28 and 20:32 make reference to the *Moreh* as if he were still alive. The use of the word עד in both 20:1 and 20:14 is instructive here, because it appears in both cases after האסף. If האסף meant ingathering — as in death — it would follow עד, not precede it. Furthermore, no precedent exists in either Qumran texts or in Scripture in which האסף as death precedes עד, whose function is to introduce another event. And surely if 20:14 is meant as a paraphrase of Deut 2:14, a point on which scholars generally agree,[10] עד תם in CD serves

8 Note that this verse is a summary, speaking after the fact of the death of Aaron as a harbinger of what will happen to Moses. Num 20:28, which describes Aaron's actual death, includes the phrase וימת אהרון, "then Aaron died," in keeping with the Pentateuchal structure I describe here.

9 The Numbers and Deuteronomy passages that refer to actual death, such as Num 20:28 for Aaron, all include מות or וימת, though they do not include ויגוע.

10 Eshel, "CD 20:13–15," deals further with the phrase עד תם. As he states (332): "We should adopt

the same purpose as עד תם in Deut 2:14;[11] another indication that we are talking about assembly and not death. Thus, the proposed use of האסף in CD 19:35 and 20:14 as referring to the death of the Unique Teacher is unsupported. And while it seems reasonable to view the Teacher as a patriarchal figure in the life of the community, one cannot use these Biblical passages as proof of such a comparison.

The Purpose of the Assembly and the Purpose of CD

Not all translators completely miss this last point; Florentino Garcia Martínez is an exception. He does translate האסף in 19:35 as "session."[12] Alas, he goes on to misconstrue 20:14 as "the day of the gathering in of the Unique Teacher," unfortunately not accounting for this discrepancy. This speaks to the misconception about CD that pervades the scholarly community: that the Damascus Document is not a document at all but a piecemeal collection of historical traditions about the beginnings of the Qumran sect. Schechter thought as much nearly

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the late Chaim Rabin's assumption that CD 20:13–15 is a midrash on Deuteronomy 2:14." Note, however, that Rabin himself does not designate this phrase as a midrash (see Rabin's *The Zadokite Documents*, 40), and standard English translations of Deut 2:14 support the view to which I subscribe; namely, that CD 20:13–15 is intended as a literal translation of the Scriptural verse and not as a midrash on it. Compare CD here, "And from the day of the assembly of the Unique Teacher until the end (death) of all the warriors who will have turned with the Man of Lies about forty years will lapse," with the new JPS translation: "The time that we spent in travel from Kadesh-barnea until we crossed the wadi Zered was thirty-eight years, until that whole generation of warriors had perished from the camp, as the Lord had sworn concerning them." See *Tanakh: A New Translation of The Holy Scriptures According to the Traditional Hebrew Text* (Philadelphia: The Jewish Publication Society, 1985). Compare CD also with the Revised Standard Version: "And the time from our leaving Kadesh-barnea until we crossed the brook Zered was thirty-eight years, until the entire generation, that is, the men of war, had perished from the camp, as the Lord had sworn to them." See Herbert G. May and Bruce M. Metzger, eds., *The New Oxford Annotated Bible with the Apocrypha, Revised Standard Version* (New York: Oxford Univ. Press, 1977). Eshel further states that this midrash, as he believes it to be, also is based on Num 14:32–34, the original story of the spies that is the subject of Moses' discourse in Deut 2:14. I believe that, although עד תם seems to echo Numbers 14, it is God's oath in Deut 2:14 that is the object of the author's interest, since he focuses as well on the phrase אנשי המלחמה, which appears in Deuteronomy but not in Numbers.

11 See my discussion further on regarding the parallel to Deut 2:14.

12 Florentino Garcia Martínez, *The Dead Sea Scrolls Translated: The Qumran Texts in English* (Leiden: E. J. Brill, 1994) 46. Note, however, that in a more recent edition, Martínez reads this phrase as "from the day of the gathering in [of the teacher]," in conformity with his rendering of 20:14. See Florentino Garcia Martínez and Eibert J. C. Tigchelaar, *The Dead Sea Scrolls Study Edition Volume 1* (1Q1–4Q273) (Leiden: Brill/Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 2000) 579.

a century ago in naming his geniza find *Fragments of a Zadokite Document*.[13] More recently, Edward Cook noted the absence of a central theme:

> [T]he train of thought rambles from subject to subject, with many digressions, asides, and pauses to explain a difficult or important quotation from Scripture. Apparently the Document was expanded at different times, often without care for the lucidity of the discourse.[14]

Little wonder, then, that so many translations of CD are so incomprehensible. If one assumes the text makes no sense in any event, a coherent translation — one that provides a unified narrative in which verb tenses are rendered consistently — is simply not necessary. My own understanding of CD could not be more different, for I see the essential unity of the work, composed by a single author with a central theme. Indeed, the unity and consistency of the text not only is clear but also is an essential prerequisite to correctly understanding the document as a whole. And what is true for the document as a whole also applies to the two references to האסף before us. For they must be seen in tandem with one another, both referring to the same event, both elements of the same larger idea that lies at the heart of the work.

First, let us return to 19:33–20:1. If האסף does not refer to death, to what does it refer? The text itself provides the answer, if we see it in the context of what immediately precedes it and what follows it (19:31–20:2):

> ושונא ומתעב אל את בוני החיץ וחרה אפ אפו בם ובכל
> ההלכים אחריהם. וכמשפט הזה לכל המאס במצות אל ~~וד~~ וע
> ויעזבם ויפנו בשרירות לבם. כן כל האנשים אשר באו בברית
> החדשה בארץ דמשק ושבו ויבגדו ויסורו מבאר מים החיים.
> לא יחשבו בסוד עם ובכתבם לא יכתבו מיום האסף ~~יוד מודה~~

13 Chaim Rabin's understanding was even more radical than Schechter's. He titled his translation and commentary *Zadokite Documents* — in the plural — and he stated in the preface to the first edition of 1953: "I am convinced that the Admonition (pp. i–viii, xx) is all of it a mosaic of quotations, both from O.T. and other, now lost, writings" (p. ix).

14 Wise, *The Dead Sea Scrolls: A New Translation*, 49. Philip R. Davies, in his *The Damascus Covenant: An Interpretation of the "Damascus Document"* (Sheffield: JSOT Press, 1983), also attributes this redaction theory to Hartmut Stegemann, particularly with regard to 19:33–20:34. As Davies puts it, "Stegemann (ref. *Die Entstehung der Qumrangemeinde* [Bonn: Rheinische Friedrich-Wilhelms-Universität, 1971]) is content to present the material here as a series of independent sources that have been redacted — whether to some particular plan or purpose he does not consider." By contrast, says Davies (174), J. Murphy-O'Connor (ref. "LADDXIX, A Literary Analysis of Damascus Document XIX, 33–XX, 34," *RB* 79 [1972]) "treats the whole of XIX, 33–XX, 34 as a single document which contains two interpolations at XX,lb–8a and 13b–17a." I suppose pages 19 and 20 to be part of the original document and find no interpolations in these passages.

( ) מורה היחיד עד עמוד משיח מאהרן ומישראל. וכן המשפט
לכל באי עדת אנשי תמים הקדש ויקוץ מעשות פקודי ישרים

> And God will hate and abhor the builders of the wall and His anger will be kindled against them and all their adherents. And this same verdict (also) will be executed against all those who shall despise the commandments of God, abandoning them and turning away with willfulness of heart. So all those who will have joined the New Covenant in the land of Damascus but who will retreat and become traitors, turning from the Well of the Living Waters. They will not be counted in the assembly (mystery) of the people, and they will not be recorded in their roster from the day of the assembly of the Unique Teacher until the coming of the Messiah from Aaron and from Israel. And so this will be the judgment of all those who join the congregation of the men of perfect holiness but who (subsequently) will recoil from observing the commandments of the upright.

Note the futuristic translation. In contrast to common renditions which make the Unique Teacher a figure of the past and render the death of the Teacher a historical event, according to this translation the text makes no allusion to the death of the *Moreh*. On the contrary, he is considered to be a futuristic figure who will be a forerunner, a kind of Elijah, preparing the "new covenanteers" for the "coming of the Messiah from Aaron and from Israel."[15] If CD 20:14, which we will look at shortly, had not existed, no one would have presumed to understand the first occurrence in 19:35 as referring to death. It is because of the second occurrence of האסף in 20:14 which is followed by the mention of forty years that its first occurrence in 19:35 has been rendered as an allusion to the death of the Teacher of Righteousness.

In addition, the author of CD frequently uses triple phrases – a sequence of three parallel or similar terms – to emphasize a point. In 19:34, he writes of those "who will *retreat* ושבו and *turn traitor* ויבגדו and *turn away* ויסורו from the Well of the Living Waters." It is likely, therefore, that האסף is the third of three parallel terms in the following line, and that 19:35 should be read as follows: "They will not be counted in the assembly בסוד of the people, and they will not be recorded in their roster ובכתבם from the day of the assembly האסף of the Unique Teacher . . ."

It is important to understand that, contrary to most scholarly opinions, CD 19–20 speaks not of one group but of two: those who will never have joined

15 For more on this interpretation, see Ben Zion Wacholder, "Who is the Teacher of Righteousness?" *BRev* 15:2 (1999) 26–29.

the Unique Teacher, described as "the builders of the wall," and those who will have joined but will subsequently defect, impatient with the tarrying of the Messiah (19:31ff.). The text distinguishes between these two classes when it says (19:31–34): "and this same verdict will be executed against all those . . . who will have joined the New Covenant in the land of Damascus *but who will retreat* ושבו *and become traitors* וביגדו, *and turn* ויסורו from the Well of the Living Waters." The use of these three verbs implies a lengthy period of time during which some, if not many, of the Teacher's adherents will desert him. In the end, this group of deserters will not be counted among the righteous "from the day of the assembly of the Unique Teacher until the coming of the Messiah from Aaron and from Israel" (19:35–20:1).

It is, then, this second class for whom the author's particular wrath is reserved, for they will have entered into the *berit hachadashah* and later abandon it. But it is the author's intent to describe the fate of both groups at the time of the coming of the Messiah. At that time, both classes of enemies will be wiped out, as the text states:

וכמשפט הזה לכל המאס בראשונים

> This is the judgment concerning anyone who rejects the first and the last, [who put abominations upon their heart and walk in the wantonness of their heart] (CD 20:8–10).

That is to say, this will be the end of all of those who despised the Siniatic Torah (בראשונים) and those who will reject the Damascene Covenant (באחרונים) to be proclaimed before the coming of the Messiah — or, as CD states, עד עמוד משיח מאהרן ומישראל "until Messiah arises from Aaron and from Israel" (CD 20:1). Again, it is Martínez, alone among contemporary Qumran scholars, who understands this distinction, as is clear by his translation:

> And God hates and detests the builders of the wall and his anger is kindled against them and against all those who follow them. And like this judgment will be that of all who reject God's precepts . . . and forsake them and move aside in the stubbornness of their heart.[16]

Martínez does not follow through on this understanding in 20:13–15 and the second use of the word האסף. Yet the text is entirely consistent here, as my translation shows:

16 Martínez, *The Dead Sea Scrolls Translated*, 46. The italics are mine, added for emphasis. Martínez retains this translation in the new *Dead Sea Scrolls Study Edition* co-authored with Eibert J.C. Tigchelaar. See vol. 1, p. 577.

ומיום האסף יורה היחיד עד תם כל אנשי המלחמה אשר שבו
עם איש הכזב כשנים ארבעים׃

> And from the day of the assembly of the Unique Teacher until the end (death) of all the warriors who will have turned with the Man of Lies will lapse about forty years.

Just as 19:35 refers to those who will forsake the new covenant of Damascus and will abandon the Unique Teacher, so too 20:14 refers to this same group. Why the need for both references? Because each comes to illumine the other, a technique used often in later rabbinic exegesis. The first reference surrounding האסף teaches us that God's anger will be greater against those who will have joined the covenant and will have abandoned it than against those who have always been with the enemy. It also connects the activity of the Teacher to the coming of the Messiah, but it does not explain how long the interval will be, nor exactly what will happen. The second reference also alludes, though implicitly, to the coming of the Messiah, but further amplifies it: "From the day of the assembly of the Unique Teacher until the end (death) of all the warriors who will have turned with the Man of Lies will lapse about forty years." As scholars have noted, this is a direct reference to the period of the wilderness experience as dated in Deut 2:14, which refers to the story of the spies in Numbers 14:

והימים אשר־הלכנו מקדש ברנע עד אשר־עברנו
את־נחל זרד שלשים ושמנה שנה עד־תם כל־הדור
אנשי המלחמה מקרב המחנה כאשר נשבע יהוה להם

> And the time from our leaving Kadesh-barnea, until we came over the brook Zered, was thirty eight years; until all the generation of the men of war had perished from the camp, as the Lord swore to them (Deut 2:14).

This verse speaks of thirty-eight years while CD refers to forty, but the difference between them is easily explained: Since the departure from Kadesh-barnea was about two years into the journey, one must add that to what we have here; the sum is "some forty years" in total. This is precisely parallel to כשנים ארבעים (20:15), the "some forty years" during which the Teacher's opponents will join the Man of Lies. Thus from the time of the Mosaic assembly to the entry into the Promised Land was about forty years, and the time period from the assembly of the community by the Unique Teacher to the coming of the Messiah will be about forty years. This time period took Moses עַד־תֹּם כָּל־הַדּוֹר אַנְשֵׁי הַמִּלְחָמָה, "to the time of the destruction of all the generation of the men of war," as it is about to take the Unique Teacher עד־תם כל אנשי המלחמה (CD 20:14), "until

the end (death) of all the warriors" who will betray the Teacher by joining up with the Man of Lies. The language is precisely the same and the time frame is identical, because the purpose is precisely the same.

But why, then, has no one understood האסף here as assembly and not death? Scholars have until now simply ignored the thirteen words that come between the reference to the *Yoreh Ha Yachid* and the forty years in this sentence. They instead have connected the two together, concluding that the reference here refers to the Teacher's death and inferring by implication that the first use of האסף carries a similar meaning. But clearly, if the text had wanted to date the death of the Teacher it would have said something like: מיום האסף מורה צדק כארבעים שנה —"From the day of the death of the Moreh Zedek was some forty years." Why, then, this long interim clause about the end of the warriors and the business of their joining with the Man of Lies? Because that is the true focus of the text. This verse is not dating the death of the Unique Teacher but the destruction of the traitors, just as Deut 2:14 dates the destruction of the spies who betrayed Moses by claiming that the Israelites could not conquer the land, as well as the destruction of the generation of the wilderness. In my construction, CD operates in two time frames, the historical and the futuristic, fusing the two into a single message.

The author's focus is the coming experience of the community, about to be embarked upon, which will be led by the Unique Teacher.[17] Just as the Torah centers upon the covenant made at Sinai by those who faithfully followed Moses, and their subsequent forty-year wilderness preparation for entry into the Promised Land, so does CD focus on the *berit hachadashah*, the new covenant that will be made with those who will faithfully follow the Unique Teacher, and the subsequent forty-year preparation in the wilderness of Damascus for entry into the Messianic Age. CD modifies the Exodus account in accord with Ezekiel 4:4–6: In the Book of Exodus, 430 years is the interval from the beginning of the period of servitude to the Exodus, but Ezekiel modifies that by separating out 390 years from 40 years.[18] So, too, the author of CD mentions 390 years of servitude (CD 1:5–6) and here adds 40 years, which he identifies as the period of the wilderness wandering and entry into the land of Canaan as a parallel to

17 I believe the author's intention is clear and consistent from the very beginning of the document. See CD 1:11, ויקם להם, which I translate as "He will raise up for them [a Teacher of Righteousness to guide them in the way of his heart]." Also see Ben Zion Wacholder, "The Preamble to the Damascus Document: A Composite Edition of 4Q266–4Q268," *HUCA* 69 (1998) 31–47.

18 Ezek 4:4–6: "Then lie on your left side, and let it bear the punishment of the House of Israel; for as many days as you lie on it you shall bear their punishment. For I impose upon you three hundred and ninety days, corresponding to the number of the years of their punishment; and so you shall bear the punishment for the House of Israel. When you have completed these, you shall lie another forty days on your right side, and bear the punishment of the House of Judah. I impose on you one day for each year" (New JPS translation).

the "coming of the Messiah from Aaron and from Israel." This modification in CD apparently also draws on Jubilees 50:4, which makes the entry into Canaan the focus of Israelite history, and in which the forty-year period points toward the entry into Canaan.[19]

Damascus, then, is to CD what Sinai is to the Pentateuch, and it figures prominently throughout the document. CD 6:19, for example, describes the feast days and fast days of those באי הברית החדשה בארץ דמשק "who will be entering into the new covenant in the land of Damascus." Similarly, CD 8:21 speaks of the promise of God's grace upon כל האנשים אשר באו בברית החדשה בארץ דמשק "all the men who will have entered into the new covenant in the land of Damascus."

Significantly, however, references to דמשק appear only in CD and its parallel fragments found at Qumran[20]— and not in any other document found among the Dead Sea Scrolls, including *Pesher Habakkuk* with its references to the Teacher of Righteousness. What are we to understand from this? I propose that: 1. Damesek, as some speculate, could not refer to Qumran because the author of CD does not know of Qumran (or, some say, of Babylon);[21] neither could it be Damascus, because CD interprets Damascus as being in the north;[22] and 2. The real purpose of CD lies in bringing the eschatological to the community, in announcing the end of time.

The author's purpose is to provide, not a historical recapitulation of the beginnings of the community, but rather a description of the future of the community as the last faithful remnant of Israel, bringing about the time of the Messiah. CD is prophecy, not history. And, since the prophecy did not come true, no one else mentions it in any document we have unearthed from the Dead Sea region.

To underscore the authority and legitimacy of this prophecy, the author of CD makes use of the connotative language of assembly as both past and future:

19 Jubilees 50:4: "For this reason I have arranged for you the weeks of years and the jubilees — 49 jubilees from the time of Adam until today, and one week and two years. It is still 40 years off (for learning the Lord's commandments) until the time when he leads (them) across to the land of Canaan, after they have crossed the Jordan to the west of it." James C. VanderKam, ed. and trans., *The Book of Jubilees* (Lovanii: Aedibus E. Peeters, 1989) 325.

20 See fragments 4Q266f3 2:12 and 3:20; 4Q267f2 1:12; 4Q269f4 2:1; 4Q269f5 1:2, as well as the references to "Damesek" in CD 6:5, 6:19, 7:15 (where Amos is quoted), 7:19, 8:21, 19:34 and 20:12.

21 For a concise statement of this problem of defining "Damascus," see Davies, *The Damascus Covenant*, 16–17.

22 Amos, quoting God in chastising Israel, states: ונשאתם את סכות מלככם ואת כיון צלמיכם כוכב אלהיכם אשר עשיתם לכם והגליתי אתכם מהלאה לדמשק "And you shall carry off your 'king' — Sikkuth and KYYYun, the images you have made for yourselves of your astral deity — as I drive you into exile *beyond* מֵהָלְאָה Damascus" (Amos 5:26–27, JPS translation). With the change of a significant word in the quotation, the author of CD cites it as proof that those who cling to the sect will escape to the north: "Those who hold firmly (to the covenant) shall escape to the land of the north, as He said, והגליתי את סכות מלככם ואת כיון צלמיכם מאהלי דמשק 'And I will expel your "king" — Sikkuth and Kivun — your images, from my tent מאהלי (to) Damascus'" (CD 7:13–15).

the first testament at Sinai and the "new testament" in Damascus. Just as ויקהל משה את-כל-עדת בני ישראל, "Then Moses assembled all the congregation of the children of Israel" (Exod 35:2) to hear the word of God, so too, האסף יורה היחיד "the Unique Teacher shall assemble" all of his followers. The proposal of Moses as paradigm for the Unique Teacher is further strengthened by the analysis of Émile Puech in his reconstruction of the Melchizedek document from Qumran, 11QMel.[23] Line 1:12, so fragmentary that it does not appear in many translations of this document, Puech restores: [המורה הראי]שון מושה, *Moses, the first Moreh*. If this reading is correct, we have textual support for the *Moreh HaYachid* as the second *Moreh*, and Moses as the first. In further support of this connection, we also have two 4Q fragments of the Damascus Document that point to a convocation of the faithful "in the third month," just as at Sinai:

בחדש השלישי לצאת בני-ישראל מארץ מצרים ביום הזה באו מדבר סיני

In the third month of the departure of the children of Israel from the Land of Egypt, that same day they came into the wilderness of Sinai (Exod 19:1).

[יושבי] המחנות יקהלו בחודש השלישי וארורו את הנוטה ימין
ושמאול מן ה[תורה

All [the inhabitants of] the camps shall congregate in the third month and curse those who turn right [or left from the] Torah (4Q266f 11 1:17).

[וכל יושבי המחנות יקהלו ב]חדש השלישי וא[רו את]
[הנוטה ימין ושמאול מן התורה]

[All the inhabitants of the camps shall congregate in the] third month and cur[se him who turns right or left from the Torah] (4Q270f7 2:11–12).[24]

Note particularly the use of the verb קהל here, exactly as in Exod 35:2 above and in parallel with האסף in CD 19–20. It cannot be by accident that this convocation is to take place "in the third month" of this period of the Unique Teacher: It is a direct parallel to the convocation at Sinai, which Moses convened "in the third

23 Émile Puech, "Notes sur le manuscrit de XIQMelkîsédeq," *RevQ* 12:48 (1987) 483–518. Puech notes that he follows Milik in reading the letters that appear on the document itself, in order to create his reconstruction. See J. T. Milik, "Milkî-sedeq et Milkî-reša' dans les anciens écrits Juifs et chrétiens," *JJS* 23 (1972) 95–114.

24 Reconstructed texts and translations from Baumgarten, *DJD* 18:76–77, 166–67. Note particularly that Baumgarten translates this as future activity, further supporting my theory that this is a prophetic text, not a historical one.

month" after the exodus from Egypt.[25] The Unique Teacher must still be alive to convene this assembly and the people must be obedient to him. This is clear from CD 20:27–28 and 20:31–32 — in the section of the Document that follows the האסף passages — which make reference to the *Moreh* as still alive:

וכל המחזיקים במשפטים האלה לצאת
ולבוא על פי התורה וישמעו לקול מורה ויתודו לפני אל חטאנו
רשענו גם אנחנו גם אבותינו בלכתנו קרי בחקי הברית

But all those who will have held fast to these precepts, to go out and to come in according to the word of the Torah, and who will have hearkened to the voice of the *Moreh* and who will have confessed before God: We have sinned and we have acted wickedly, we and our fathers, by going contrary to the statutes of the covenant . . .

והתיסרו במשפטים הראשונים אשר
נשפטו בם אנשי היחיד והאזינו לקול מורה צדק

And they will be chastised in the judgments of the early ones, by which the men of the Community will have been judged, and they will obey the voice of the *Moreh Zedek*.

In light of the overall context in which the Unique Teacher is described in CD, האסף must refer to assembly. It seems inconceivable to understand it any other way.

Like Moses in the wilderness, then, the Unique Teacher is to assemble the people to bring them from exile into the Promised Land — not the Land of Canaan this time, but the Messianic Age. Like Moses, the Unique Teacher is to suffer treachery at the hands of those who will join him and later turn against him. And like the treacherous Israelites of old, the enemies of the Unique Teacher will die out during a forty-year period during which the Teacher prepares the faithful for the coming of the Messiah.

Conclusion

If we correctly understand this overarching purpose of CD, then האסף cannot mean death but must mean assembly, for the Unique Teacher cannot die forty

25 While the CD author's prophecy regarding the land of Damascus is seemingly not known in other Qumran literature, the motif of a convocation in the third month certainly is. As I noted in my analysis of Jubilees as super-canon for the Qumran community, the reconstructed text of the Jubilees prologue found at Qumran (4Q216) not only emphasizes the assembly "in the third month" but also amplifies Moses' ascension of the mountain on the sixteenth of the month, the day after Shavuot

years before the Messianic time if he is to parallel Moses who died just before the peoples' entry into the Promised Land. If the role of the Unique Teacher is to prepare the community for the Messiah's coming, he must live up to this time – a time that, according to the prophecy of the author of CD, is imminent.

In the end, both the story of the Unique Teacher and that of Moses are built on the story of Jacob, as described in Gen 49:1:

ויקרא יעקב אל-בניו ויאמר האספו ואגידה לכם את
אשר-יקרא אתכם שאת אחרית הימים

> And Jacob called to his sons and he said to them: "Gather together so that I might tell you that which will befall you in the Time to Come."

The word האסף is used in CD by design: It is a direct parallel to the gathering of the people by Moses, the *Moreh Rishon*. But more than this, it is an echo of the revelation of Jacob to his sons, of what will happen to future generations in eschatological times, the *acharit hayamim*. The *Yoreh HaYachid* stands as the futuristic leader who will guide the pre-Messianic generations to the End of Time. It is his life and work in preparation for the Messianic Age – and not his death – that is celebrated in the Damascus Document.

Postscript

A reader of this paper has raised a series of objections to its major thesis by noting a number of verbs that are in the perfect conjugation but which have been rendered here in a future tense. For example on line 33 of page 19 the verb באו in the clause כן כל האנשים אשר באו בברית החדשה בארץ דמשק is rendered "So all the men who will have joined the new covenant in the land of Damascus." It might be argued that this translation is objectionable. Is it not preferable to render it as an event of the past – namely, that the people had entered already the new covenant in the land of Damascus?

An analysis of the text, however, makes such a paraphrase unlikely. Page 19 line 34 continues ושבו ויבגדו ויסורו מבאר מים החיים and is translated, "but who will have retreated and will become traitors and will turn away from the Well of Living Waters." One may propose that ושבו be rendered in the past tense. But, if so the text that continues is incoherent. Let me present the two alternate translations – the conventional one which translates the *nifal* infinitive הֵאָסֵף

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according to the sectarian calendar. See Ben Zion Wacholder, "Jubilees as the Super Canon," in Moshe Bernstein, Florentino Garcia Martínez, and John Kampen, eds., *Legal Texts and Legal Issues: Proceedings of the Second Meeting of the International Organization for Qumran Studies, Cambridge 1995, Published in Honour of Joseph M. Baumgarten* (Leiden: Brill, 1997) 195–211.

as having occurred in the past, or as was argued above, the future. Here is the text and the two alternate renditions of 19:35–20:1.

לא יחשבו בסוד עם ובכתבם לא יכתבו מיום האסף
מורה היחיד עד עמוד משיח מאהרן ומישראל

1. "They will not be counted in the assembly of the people, and they will not be recorded in their roster from the day the Unique Teacher was gathered in until the coming of the Messiah from Aaron and from Israel."

2. "They will not be counted in the assembly of the people, and they will not be recorded in their roster from the day the Unique Teacher will assemble (the righteous) until the coming of the Messiah from Aaron and from Israel."

In the putative translation they will not be recorded and written from the day the Teacher had died. The conventional understanding presumes that the Teacher had died some forty years ago as supposedly stated in 20:13. Such a rendition is contextually illogical. Why should they have been recorded prior to his death? It implies that following the death of the Teacher they will remove the names of the wicked. Why then would the names of the wicked remain on the roster during the lifetime of the Unique Teacher? Moreover, what is the force of the clause "until the Messiah of Aaron and Israel will arise?" Does it imply that they will be restored to the roster after the coming of the Messiah? The main point here is that anyone who has indeed become a member but refuses to observe any of its rules will be removed from the roster and considered as if he had never joined.

My translation, however, supposes that האסף amplifies the general context of the text to recruit new members for the community of the righteous. The previous lines call on the people to join immediately. Anyone tarrying to join immediately will be spurned since the Unique Teacher will soon assemble to proclaim a new covenant in the land of Damascus. At that point new members who would have come will no longer be accepted. Furthermore when the Messiah from Aaron and Israel will arise all those who will not have become members of that community will perish with the other wicked. Another point here is a warning to be diligent in observing the new rules of the community. Anyone who abrogates any of them likewise will be removed and will suffer the fate of those who had not joined.

Pages 19 and 20 of the B manuscript which contain the word האסף must be read as an integral part of the treatise as a whole. For example, page 1 of CD could be read in two alternate ways — as if it were referring to the past or to the future.

Lines 5 to 20 deal with the 390 years from the destruction of the Solomonic temple to the advent of the Righteous Guide. The ambiguity of this passage is that it can be understood as if the end of the 390 years had already elapsed and as if the Moreh Zedek had already arisen. If read, however, alternatively, the end of the 390 years was still in the future, immanent as it was, and the coming of the Moreh Zedek is likewise futuristic. Ever since Schechter the first alternative has been taken for granted. I argue for the second in a recent article.[26] The parts of the recently published Preamble that are not found in CD open a new vista which compels us to read it as an event that has not as yet transpired. The author of the Damascus Document, now known by its original title מדרש התורה האחרון "The Midrash of the Last Torah," presents his work as an amplification of the Book of Jubilees, whose Hebrew title is מחלקות העתים "Divisions of the Times," a work praised as מדוקדק "perfect" in CD 16:2 and 3. The author of Jubilees defines time as divided into three epochs — as את הראשנים "the early epoch," ואת האחרונים "and the last epoch" and ואת אשר יבוא "and the future epoch."[27] And, so does the author of the Damascus Document. In its prologue Jubilees promises to reveal what will occur in eschatological times. In actuality, however, the book concludes with the Exodus. It seems to me that the Damascus Document reflects an attempt to fulfill what was not carried out by the author of Jubilees. A single example will show how the author of the Damascus Document focused his work on the future. Page 1 line 1 of CD begins . . . ועתה שמעו לי כל יודעי צדק "Now heed me all you who know righteousness . . ." We now know, however, that the Geniza text lacks the original beginning which survives in 4Q266, 267 and 268. The lines preceding . . . ועתה שמעו לי כל יודעי צדק are extant in 4Q266f2 1:5–7 and 4Q268f1 1:7–9. These manuscripts read

ויגל עיניהמה בנסתרות ואוזנמה פתחו וישמעו עמוקות ויבינו
בכול נהיות עד מה יבוא במה. ועתה שמעו לי כול יודעי צדק

> Then He will open their eyes to the mysteries (that have been concealed) so that they will open their ears and they will hear profound matters. And they will perceive all events to eternity — everything that will happen to them. Now heed me all you who know righteousness . . .

The original text, therefore, makes it apparent that the treatise must be read as futuristic. To be sure, as was noted above, certain verbs in the Damascus Document sometimes intermingle perfect and imperfect conjugations, creating ambiguities. The major thrust, however, is futuristic perhaps just as is

26 Wacholder, "The Preamble to the Damascus Document," 31–47.
27 4Q216f1 4:3–4.

Revelation 1:19 — γράψον οὖν ἃ εἶδες καὶ ἃ εἰσὶν καὶ ἃ μέλλει γενέσθαι μετὰ ταῦτα "Write therefore the things which you have seen and the things which are and the things which are about to happen after these things."[28] The Damascus Document can no more be taken as a historical document than can the major thrust of the Apocalypse of John.

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28 I thank Tim Undheim for this insight.

Terminological Patterns and Genesis 17

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Close reading of the extant text of Genesis 17 brings to light several so-called terminological patterns. For one thing, the linguistic links based on the noun ברית (covenant), the verb היה (to be), the noun זרע (seed; descendant), and the two verbs רבה (multiply), and פרה (grow; be fruitful), support the terminological unity of the MT of Genesis 17. So, too, through deliberately distributing the word עולם (eternity; ages; as of old), the verb קום (arise; establish), the noun דור (generation), the term זכר (male), and the verb נפל (fall [upon]; prostrate), the author of the extant text has closely connected the patriarchal stories with the preceding *Urgeschichte*.

Since there is no *opinio communis* in Pentateuchal studies whether Genesis 17 should be regarded as consisting of different redactional layers[1] or rather be viewed as a coherent literary unit,[2] it might be worthwhile to scrutinize its terminology in order to resolve the contradictory conclusions. Furthermore, since Genesis 17 has been called "a watershed in the Abraham story,"[3] we might gain insight into its theological significance within the patriarchal narratives by carefully examining its vocabulary.

Methodological Considerations

Prior to explaining the methodology employed in this article it seems appropriate to present the results of this study: The linguistic links brought to light in Genesis 17, patterns that seem to have a structuring function, are founded on the noun

1 E.g., P. Weimar, "Gen 17 und die priesterschriftliche Abrahamgeschichte," *ZAW* 100 (1988) 22–60. Regarding Weimar's study, G. J. Wenham, *Genesis 16–50*, WBC 1/2 (Waco, Texas: Word Books, 1994) 18, maintains that Weimar's attempt to "find four layers of redaction within Gen 17 overpresses nuances in the text and is too complicated to be convincing." Cf. K. Grünwaldt, *Exil und Identität: Beschneidung, Passa und Sabbat in der Priesterschrift*, BBB 85 (Frankfurt: Anton Hain, 1992) 25–38; H. Seebass, *Genesis, 2/1 Vätergeschichte (11, 27–22, 14)* (Neukirchen-Vluyn: Neukirchener Verlag, 1997) 111–112. See also the *Forschungsberichte* presented by S. R. Külling, *Zur Datierung der "Genesis-P-Stücke" namentlich des Kapitels XVII* (Kampen: Kok Publishing House, 1964) 250–262; S. E. McEvenue, *The Narrative Style of the Priestly Writer*, AnBib 50 (Rome: Biblical Institute Press, 1970) 145–148; E. Blum, *Die Komposition der Vätergeschichte* (Neukirchen-Vluyn: Neukirchener Verlag, 1984) 420–428; Grünwaldt, *Exil*, 18–26.

2 E.g., Külling, *Datierung*, 250–262; McEvenue, *Narrative Style*, 145; Blum, *Komposition*, 420–432; Wenham, *Genesis 16–50*, 16–19.

3 Wenham, *Genesis 16–50*, 16; cf. C. Westermann, *Genesis 12–36*, BKAT 1.2 (Neukirchen-Vluyn: Neukirchener Verlag, 1981) 327.

ברית (covenant), the common verb היה (to be), the noun זרע (seed; descendant), and the two verbs רבה (multiply), and פרה (grow; be fruitful). Furthermore, verbal linkages going beyond the narrow confines of Genesis 17 are based on the noun עולם (eternity; ages; as of old), the verb קום (arise; establish), the noun דור (generation), the term זכר (male), and the verb נפל (fall [upon]; prostrate).

These results have been arrived at by proceeding from the extant text as the sole point of departure. Therefore the question of oral and/or written *Vorlagen* is of no consequence for this study and hence it is insignificant whether Genesis 17 is considered part of the so-called "P-Source,"[4] or possibly a passage of "P" reworked by "J,"[5] or whether it is attributed to the "priestly layer" of the patriarchal narrative.[6] In the following it will shown that Genesis 17 has been carefully composed by its ancient author, the term "author" being used and understood as referring to the person(s) responsible for the text before us, the person(s) who composed the literary units we call "Genesis 17" or "Genesis," literary entities which did not exist prior to their composition, whatever the prehistory of the respective parts may have been.

While it has been claimed that outside of Genesis 2–11 there is no explicit reference to the primeval history,[7] a claim based on investigating the so-called "non-priestly" texts of Genesis 2-11 and not on the *Endgestalt*, i.e. the final text,[8] the terminological patterns presented below leave no doubt that in the extant text of the Pentateuch, Genesis 17 terminologically has been linked with several "Priestly" and "Yahwistic" pericopes. Therefore the question we should ask at this point is: How far do we do justice to the message of the extant text of the primeval history/patriarchal stories and their mutual interrelationship if our conclusions are based on some selected "fragments," i.e. "Priestly" or "Yahwistic" texts? I aver that in basing our conclusions on "fragmentary" parts of a given biblical text, we are apt to gain but a "fragmentary" understanding of its inherent theological message. In view of this dilemma the proposal made by R.Rendtorff may prove profitable, if applied consistently:

> A "reconstruction" of previous stages of the text . . . would be very hypothetical in most cases . . . Moreover, in conscious and explicit deviation from a widely held exegetical theory and praxis, the hermeneutic principle

4 E.g., Westermann, *Genesis 12–36*, 308; Seebass, *Vätergeschichte*, 99; J.A.Soggin, *Das Buch Genesis: Kommentar* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1997) 262.

5 Wenham, *Genesis 16–50*, 19.

6 Cf. Blum, *Komposition*, 420–432.

7 Cf. F. Crüsemann, "Die Eigenständigkeit der Urgeschichte," in J.Jeremias and L.Perlitt, eds., *Die Botschaft und die Boten: Festschrift für Hans Walter Wolff zum 70. Geburtstag* (Neukirchen-Vluyn: Neukirchener Verlag, 1981) 15.

8 Cf. Crüsemann, "Eigenständigkeit," 14.

applied here is that the understanding of the biblical text in its present form is the preeminent task of exegesis.[9]

Since "the only *fact* available to us is the text of the Pentateuch in all its complexity,"[10] it is the complex and yet carefully composed *Endgestalt* which will serve as the foundation for this paper. In some studies scrutinizing the vocabulary of selected passages in the Pentateuch, the hermeneutic principle proposed by Rendtorff has been consistently applied and in the course of these scrutinies significant verbal links have been brought to light, patterns which are present in short self-contained passages. On a larger scale structures have been disclosed that encompass major parts of Genesis, Leviticus, and the Pentateuch respectively.[11]

Such linguistic links can be identified by tabulating all the words used in a self-contained literary unit, an entity which may consist of a brief passage or a whole biblical book. Through tabulating the total vocabulary of a given passage, the distinct distribution, the relative frequency and the structural positioning of significant terms and/or phrases will come to light.[12] Concerning the present study, this means that (almost) every word used in Genesis 17 has been scrutinized by means of *BibleWorks* and the concordance. In tabulating the respective positions and counting the frequencies of the words actually used, we find several suggestive terms which turn out to be significant as far as the structural outlines are concerned, and it is these distinct structures, based

9 R. Rendtorff, *Leviticus,* BKAT 3.1 (Neukirchen-Vluyn: Neukirchener Verlag, 1985) 4: "Eine 'Rekonstruktion' früherer Textstadien . . . wäre in den meisten Fällen ohnehin nur sehr hypothetisch möglich. . . . Zudem wird hier — in bewußter und ausdrücklicher Abweichung von einer weithin geübten exegetischen Theorie und Praxis — von dem hermeneutischen Grundsatz ausgegangen, daß das Verständnis des biblischen Textes in seiner jetzigen Gestalt vorrangige Aufgabe der Exegese ist."

10 R. N. Whybray, *Introduction to the Pentateuch* (Grand Rapids: Eerdmans, 1995) 27 (emphasis in the original).

11 W. Warning, "Terminologische Verknüpfungen in der Urgeschichte," *ZAW* (forthcoming); idem, "Terminologische Verknüpfungen und Genesis 15," *Henoch* (forthcoming); idem, "Terminologische Verknüpfungen und Genesis 22," *Spes Christiana* (forthcoming); idem, "Terminological Patterns and Genesis 38," *AUSS* 38 (2000) 293–305; idem, "Terminological Patterns and Genesis 39," *JETS* (forthcoming); idem, "Terminological Patterns and the Divine Epithet *Shaddai*," *TynB* 52 (2001) 149–53; idem, *Literary Artistry in Leviticus,* BInS 35 (Leiden: E. J. Brill, 1999); idem, "Terminologische Verknüpfungen und Leviticus 11," *BZ* (forthcoming); idem, "Terminological Patterns and the First Word of the Bible בראשית (ב) '(In the) Beginning,'" *TynB* (forthcoming); idem, "Terminologische Verknüpfungen und der aaronitische Segen," *JETh* 15 (2001) 5-10; idem, "Terminological Patterns and the Term עצום 'Strong, Powerful' in the Pentateuch," *AUSS* (forthcoming).

12 W. G. E. Watson, *Classical Hebrew Poetry: A Guide to Its Techniques,* JSOTSup 26 (Sheffield: JSOT Press, 1984) 288, points out that the seventeen occurrences of the particle כל (all, every) in Ps 145 "[are] obviously related to the universalist theme of the poem."

on counting a given sentential entity, word or term, which have been called "terminological patterns."[13]

With regard to such "veiled counting"[14] in the Hebrew Bible we would do well to bear in mind M. Tsevat's admonition:

> The literary units to be scrutinized with regard to the frequency of characteristic words must be clearly and distinctly recognizable as such, and if possible they should be delimited in the same way in previous research, so that the exegete will not be tempted or be exposed to the reproach that he or she places the caesura in the continuum of the text in such a way that the characteristic term occurs the desired number of times.[15]

It is common knowledge that in many eras and diverse cultures people have had a certain predilection for some numbers which seemingly carry symbolic significance. There can hardly be any doubt that the symbolic significance of numerals like three, ten, twelve, and their multiples is surpassed by seven which can rightfully be called the sacred number *par excellence*. In the process of tabulating the vocabulary of some selected passages of Genesis, it has come to light that in a variable length list often the *seventh* position and, in case of a longer list, less often the *twelfth* are emphasized by means of some special term or phrase. For example, the terminological and thematic interrelation of the seventh occurrences of the two terms טוב (good) and עשה (make) in Gen 1:31, "God saw all that he had made, and it was very good" (NIV), and their twelfth occurrences in 2:18, "It is not good for the man to be alone. I will make a helper suitable for him" (NIV), may shed new light on the correlation of the so-called "Priestly" and "Yahwistic" creation stories. Because of these terminological links it is my contention that according to the extant text the creation story in Genesis 1–2 appears to be a carefully composed homogeneous literary unit.[16]

It certainly is significant that terminological patterns can be found in diverse genres of biblical literature,[17] and I daresay that even high-frequency words,

13 Warning, *Artistry*, 25.

14 M. Tsevat, "Abzählungen in 1 Samuel 1–4," in E. Blum, Ch. Macholz and E. W. Stegemann, eds., *Die Hebräische Bibel und ihre zweifache Nachgeschichte: Festschrift für Rolf Rendtorff zum 65. Geburtstag* (Neukirchen-Vluyn: Neukirchener Verlag, 1990) 213, speaks of "verhüllte Abzählungen."

15 Tsevat, "Abzählungen," 208. "Die literarischen Einheiten, die auf die Häufigkeit charakteristischer Wörter zu untersuchen sind, müssen als solche klar und eindrücklich zu erkennen sein und womöglich in der bisherigen Forschung so abgegrenzt sein, damit der Exeget nicht in die Versuchung kommt oder sich dem Vorwurf aussetzt, die Einschnitte im Kontinuum des Textes so zu legen, daß ein charakteristisches Wort eine gewünschte Anzahl von Malen vorkommt."

16 Cf. Warning, "Urgeschichte" (forthcoming).

17 Whereas the terminological patterns brought to light in Amos and Esther will be presented elsewhere, we should point out here that the verb קרא (call, name) is the basis for significant linguistic

technical terms, or common terms have been used by biblical writers in creating significant structures in the Bible.[18] Faced with the fact that in present-day Pentateuchal studies this approach is rarely used, certain reservations on the part of scholars are understandable. Considering the results that seemingly substantiate the methodological appropriateness of this approach, it has been rightly remarked:

> After having become accustomed to this aspect of art, you will no longer have any basic problems with the veiled countings of the Old Testament. You will rather realize that the significance of the components of a piece of art and their simple identifiability are not necessarily in a direct relationship to one another.[19]

Terminological Patterns in Genesis 17

In our search for terminological patterns within the narrow confines of Genesis 17, both the noun ברית and the common verb היה presumably function prominently. But we will show below not only that the terminology employed by its author links the different segments of this chapter, but also that terminological patterns can be discerned that create long-range linguistic links.

THE NOUN ברית

In no other chapter of the Hebrew Bible does the noun ברית (covenant; 283/27)[20] occur as often as in Genesis 17. Since almost half of the occurrences in Genesis can be found here, it proves profitable to scrutinize its distribution throughout the chapter. After it has been stated in v. 10 that every male is to be circumcised,

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linkages encompassing major parts of both books. Cf. U. Cassuto, *A Commentary on the Book of Genesis. Part I. From Adam to Noah* (Jerusalem: Magnes Press, 1961) 14–15; J. Limburg, "Sevenfold Structures in the Book of Amos," *JBL* 106 (1987) 217–222; Tsevat, "Abzählungen," 207–214; W. Berg, "Siebenerreihen von Verben und Substantiven," *BN* 84 (1996) 11–15; Warning, *Artistry*, 27–30, 51–54, 66–81, 133–136.

18 Warning, *Artistry*, points to the structuring function of common words such as ארץ (land) (53–54, 77–78), בן (son) (97–98) and היה (to be) (80–81) in Leviticus; cf. M. Butterworth, *Structure and the Book of Zechariah*, JSOTSup 130 (Sheffield: Sheffield Academic Press, 1992) 56; M. J. Boda, "Chiasmus in Ubiquity: Symmetrical Mirages in Nehemiah 9," *JSOT* 71 (1996) 55–70.

19 Tsevat, 213: "Hat man sich einmal mit dieser Seite der Kunst vertraut gemacht hat, wird man mit den verhüllten Abzählungen des Alten Testaments keine grundsätzlichen Probleme haben. Vielmehr wird man bei der Erkenntnis landen, daß die Bedeutsamkeit von Elementen eines Kunstwerks und ihre leichte Erkennbarkeit nicht unbedingt in einem positiven Verhältnis zueinander stehen."

20 These numbers are to be understood as follows: According to A. Even-Shoshan, ed., *A New Concordance of the Old Testament: Using the Hebrew and Aramaic Text* (Jerusalem: Kiryat Sepher, 1990), the noun occurs 283 times in the Hebrew Bible and 27 times in Genesis.

v.11 reads: "You shall circumcise the flesh of your foreskin, and it shall be the sign of the covenant [והיה לאות ברית] between you and me." It is exactly this statement which constitutes the *seventh* position, i.e. the very center of this thirteen-part structure:

2		בריתי	ביני וביניך	ואתנה
4		בריתי	אתך	אני הנה
7aα		בריתי	ביני וביניך	והקמתי את
7aβ			עולם לברית	וביו זרעך אחריך לדרתם
9		בריתי	תשמר	ואתה את
10		בריתי	אשר תשמרו	זאת
11		ברית	ביני וביניכם	והיה לאות
13b		בריתי	בבשרכם	והיתה
13b			עולם לברית	
14		בריתי	הפר	את
19b		בריתי	אתו	והקמתי את
19b	עולם לזרעו אחריו		לברית	
21		בריתי	אקים את יצחק	ואת

In carefully checking the concordance we become aware that within the flood story the phrase "sign of the covenant" occurs three times (9:12, 13, 17), each time being applied to the rainbow. It thus appears to be significant that the one and only time that the sign of the Abrahamic covenant, circumcision, has been designated אות ברית(ל) in the Bible, turns out to be the *seventh* occurrence of the noun ברית in Genesis 17. In the above structure the statement in the seventh position והיה לאות ברית ("and it shall be the sign of a covenant") shows that the noun אות (sign; 79/6) is being bracketed, as it were, by way of the seventh occurrences of the terms ברית and היה (to be).

THE VERB היה

In the ten-part[21] structure based on the common verb היה (to be)[22] (3548/316) the *seventh* occurrence is likewise found in the phrase והיה לאות ברית ("and it

21 Following ברית עלום in v.19, the LXX$^{c\,min}$ adds "to be his God." Westermann, *Genesis 12–36*, 305, is in favor of including the LXX reading, whereas Weimar, "Gen 17," 33, n. 60, maintains ". . . was aber sachlich weder notwendig . . . noch bei Berücksichtigung der literargeschichtlichen Problematik von V.19b berechtigt ist." Wenham, *Genesis 16–50*, 16, opines that "*pace* Westermann, it is unnecessary with some G MSS to insert 'to be his God.'"

22 In Lev 22, consisting of three distinct divine speeches, in a seven-part structure the verb "be" appears likewise seven times, twice in the first divine speech, thrice in the second, and again twice in the third, but it is of structural and theological significance that the sudden reference to the exodus is made in the *seventh* slot.

shall be the sign of the covenant") in v.11. Besides, by means of the only two occurrences of the so-called covenant-formula in the MT of the Abraham narrative, a distinct terminological pattern is being created, a type of terminological linkage that has been called "equidistant structure," because the first and last positions mentioning the covenant-formula have been equidistantly placed from the beginning and the end. The presence of the covenant formula, being next and only used in Gen 28:21, is certainly of significance.[23] In v.7 the covenant-formula appears in the context of the ברית עלום which the Lord is about to establish between himself and Abraham, and v.8 focuses on the giving of the land to Abraham and his descendants as an eternal inheritance:

1a	ויהי אברם בן תשעים שנה ותשע שנים		
1b		והיה תמים	אני אל שדי התהלך לפני
4		והיית לאב המון גוים	
5		והיה שמך אברהם	
7	להיות לך לאלהים ולזרעך אחריך		
8		והייתי להם לאלהים	
11		והיה לאות ברית ביני וביניכם	
13		והיתה בריתי בבשרכם	
16b		והיתה לגוים	וברכתיה
16b		יהיו	מלכי עמים ממנה

The preceding structures apparently focus on the very core of the covenant: the acceptance of the sign of the covenant, circumcision, is the *conditio sine qua non* for any male to attain the ultimate object of the covenant: an intimate protective relationship with God.

THE NOUN זרע

The seven occurrences of the noun זרע (seed; descendant; 229/59) may be of structural significance, because it is in the *seventh* slot that the name of Sarah's son is given for the first time in the Bible. Moreover, six times זרעך (your descendants), i.e. Abraham's offspring, is referred to, and the only time the descendants of Isaac, i.e. the offspring of the child yet to be born, are spoken of in this chapter, is found in v.19: "Then God said,'Yes, but your wife Sarah will bear you a son, and you will call him Isaac. I will establish my covenant with him as an eternal covenant for his descendants after him" (NIV):

23 Cf. Westermann, *Genesis 12–36*, 315–316; Blum, *Komposition*, 421; Wenham, *Genesis 16–50*, 22; Seebass, *Vätergeschichte*, 104–105.

7a	והקמתי את בריתי ביני וביניך ובין זרעך אחריך לדרתם
7b	להיות לך לאלהים ולזרעך אחריך
8	ונתתי לך ולזרעך אחריך את ארץ מגריך
9	אתה וזרעך אחריך לדרתם
10	ביני וביניכם ובין זרעך אחריך
12	אשר לא מזרעך הוא
19	וקראת את שמו יצחק והקמתי . . . לברית עולם לזרעו אחריו

Although Genesis 17 leaves no room for doubt that Isaac, the child yet to be born, is the Abrahamic heir with whom the Lord will establish his covenant, the blessing of plentiful progeny is promised to Ishmael, too. In the following we shall look at the distinct distribution of the two verbs רבה and פרה.

THE VERBS פרה AND רבה

The correlation of the two verbs רבה (multiply; 176/25) and פרה (grow; be fruitful; 29/12) — both occurring but twice in this chapter — may be viewed as another stylistic device employed by the author in promulgating his message:

17:2		וארבה אותך במאד מאד		Abraham
6		אתך במאד מאד	והפרתי	Abraham
20		אתו	והפריתי	Ishmael
20	והרביתי	אתו במאד מאד		Ishmael

In my opinion, the artistic arrangement of the two verbs in relation to the respective subjects can best be described by the old saying, "like father, like son." In spite of the fact that Ishmael is not the heir of the divine covenant-promise, the blessing of bounteous fertility to be bestowed upon him is described in terms identical to those used for his father.[24]

Terminological Patterns Encompassing Parts of Genesis

Whereas the four preceding structures support the literary cohesiveness of Genesis 17, the terminology employed in the extant text likewise constitutes the basis for pertinent terminological patterns linking this chapter with the preceding primeval story and the following patriarchal narratives.

24 Seebass, *Vätergeschichte*, 102, draws attention to the following: ". . . daß nach 17, 20b ausgerechnet Ismael zu einem großen Volk werden soll und daß V 2b wohl mit voller Absicht eine ausgesprochen offene Formulierung wählt."

THE TERM עולם

In the context of the flood story reference is made only once to ברית עולם (eternal covenant), in Gen 9:16, and therefore it cannot be over emphasized that following the first six occurrences of the noun ברית in Genesis (6:18; 9:9, 11, 12, 13, 15), it is in the *seventh* slot where it is stated והיתה הקשת בענן וראיתיה לזכר ברית עולם ("when the rainbow appears in the clouds, I will look at it in order to remember the *eternal covenant*"; 9:16). Hence it follows that the *seventh* occurrence of the noun ברית in Genesis turns out to be the very first mention of the phrase ברית עולם (eternal covenant) in the Bible, and this ברית is valid for all creatures living on the earth.[25]

Being quite aware of the fact that many a scholar will object to juxtaposing distinctly different texts by means of terminological patterns, I dare hypothesize that the following feature testifies to its author's deliberate design. The terminological pattern based on the thirteen occurrences of the noun עולם (eternity; ages; as of old; 437/13) in Genesis encompasses almost the whole "book." At this point we should remember the thirteen-part ברית-structure pointed out above, a terminological pattern focusing on the *seventh* position of the noun in Genesis 17. As can be seen in the following table, it is actually the *first* time that the covenant with Abraham is spoken of as ברית עולם (17:7) that turns out to be the *seventh* and central position of this thirteen-part structure:[26]

3:22	לעלם	ואכל וחי
6:3	לעלם	לא ידון רוחי באדם
4	מעולם	המה הגברים אשר
9:12	עולם	לדרת
16	עולם	והיתה הקשת בענן וראיתיה לזכר ברית
13:15	עולם	ולזרעך עד
17:7	עולם	והקמתי את בריתי ביני ובינך ובין זרעך אחריך לדרתם לברית
8	עולם	ונתתי לך ולזרעך אחריך . . . את כל ארץ כנען לאחזת
13	עולם	והיתה בריתי בבשרכם לברית
19	עולם	והקמתי את בריתי אתו לברית
21:33	עולם	ויקרא שם בשם יי אל
48:4	עולם	ונתתי את הארץ הזאת לזרעך אחריך אחזת
49:26	עולם	גבעת

25 E. van Wolde, "Facing the Earth: Primeval History in a New Perspective," in P. R. Davies and D. J. A. Clines, eds., *The World of Genesis: Persons, Places, Perspectives*, JSOTSup 257 (Sheffield: Sheffield Academic Press, 1998) 38, rightly remarks: "He utters the word ברית seven times, an indication that this is a complete and comprehensive covenant act."

26 Cf. R. Rendtorff, "'Covenant' as a Structuring Concept in Genesis and Exodus," *JBL* 108 (1989) 385–393.

The structural similarity of two distinct terminological patterns, one being founded on the noun ברית and the other on the term עולם must not be held of little account: one of them, being based on the noun ברית, focuses in the flood story on the "eternal *covenant*" with Noah, and the other one, founded on the term עולם, in the Abraham story, focuses on the "*eternal* covenant" with the patriarch. The extant *Endgestalt* of Genesis seemingly supports the following hypothesis: by way of pertinent terminological patterns the *Urgeschichte* and the patriarchal stories have been inseparably interlinked. Gen 17:7, the seventh position of the present structure reads: "I will establish my covenant as an everlasting covenant between me and you and your descendants after you for the generations to come" (NIV). It is in this very verse that the verb קום appears for the seventh time in Genesis.

THE VERB קום

In this terminological pattern based on the verb קום (arise; establish; 629/51) only the first nine occurrences have been listed below and this, of course, might arouse the reproach of arbitrariness. At this point we should not fail to ponder two aspects. First, we can hardly expect that the fifty-one occurrences of the verb in Genesis are fundamental to a meaningful structure, and second, in the case under consideration, hardly any objection can be advanced against the structural significance of 17:7. In the statement, "I will establish my covenant as an everlasting covenant beween me and you," both the verb קום and the noun עולם appear the *seventh* time in Genesis.[27] Furthermore, in looking carefully at the following table, we can easily recognize that the four texts explicitly referring to the establishing of the covenant between the Lord and Noah (6:18; 9:9, 11, 17) are framed, as it were, by the first and sixth occurrences where the term "covenant" is not mentioned at all (4:8; 13:17):

4:8	ויקם קין אל הבל אחיו ויהרגהו
6:18	והקמתי את בריתי אתך
9:9	ואני הנני מקים את בריתי אתכם
11	והקמתי את בריתי אתכם
17	זאת אות הברית אשר הקמתי ביני ובין כל בשר אשר על הארץ
13:17	קום התהלך בארץ
17:7	והקמתי את בריתי ביני ובניך
19	והקמתי את בריתי אתו
21	ואת בריתי אקים את יצחק

27 In the statement אני הנה בריתי (Gen 17:4) the noun ברית (cf. 6:18; 9:9, 11, 12, 13, 15, 16, 17; 14:13; 15:18; 17:2, 4) and the pronoun אני (cf. 6:17; 9:9, 12; 14:23; 15:7; 17:1, 4) appear the *twelfth* and *seventh* times respectively.

At this point we should be cognizant of the fact that in Gen 15:18 and 17:2 the *Bundesschluss,* i.e. the establishing of the covenant with Abraham, is expressed by כרת (cut) and נתן (give) respectively, instead of קום. Likewise we must not forget that the phrase used in Gen 15:18 ביום ההוא כרת יי את אברם ברית ("that very day the Lord cut a covenant with Abram"), is the only instance in Genesis where the making of a covenant between the Lord and humans is construed by means of the verb כרת. In all other cases where the phrase כרת ברית is used in Genesis, reference is made to a convenant between human covenant partners (21:27, 32; 26:28; 31:44). Whatever the conceptual and/or chronological distinctions may be in differentiating the phrases כרת ברית / נתן ברית / הקים ברית, the author of the extant text has managed to intricately integrate each one of them, be it in the flood story or in the Abraham narrative. In case these considerations prove to be true to authorial intent, the thematic correlation of Genesis 15 and 17 has to be reconsidered.

THE NOUN דור

Close reading of the seven occurrences of the noun דור (generation; 126/7) in Genesis brings to light another terminological link. Although in Gen 15:16, the center of this outline, it is stated ודור רביעי ישובו הנה ("and the fourth generation will come back here"), it is in the seventh position that the divine decree is given that "all your eight-day-old males shall be circumcised throughout your generations" (17:12). It should be pointed out that the other two occurrences of דור in Gen 17:7,9 are not expressly related to circumcision because the rite is not mentioned before v.10b:

6:9		בדרתיו	נח איש צדיק תמים היה
7:1		בדור הזה	כי אתך ראיתי צדיק לפני
9:12		לדרת עולם	
15:16	רביעי ישובו הנה	ודור	
17:7	לברית עולם	לדרתם	והקמתי את בריתי ביני ובינך ובין זרעך אחריך
9		לדרתם	ואתה את בריתי תשאר אתה וזרעך אחריך
12a		לדרתיכם	ובם שמנת ימים ימול לכם כל זכר

The structural significance of v.12a, giving the exact "date" when each Israelite male "for the generations to come" (NIV) is to be circumcised, is manifested in the fact that besides being in the seventh position in the present outline, it is likewise part and parcel of an outline based on the verb מול (circumcise) which has been discussed elsewhere.[28] Whereas the Noahide covenant can be

28 W. Warning, "Terminological Patterns and the Verb מול 'Circumcise' in the Pentateuch," *BN* 106 (2001) 52–56.

apprehended by all humans, the אות ברית of the Abrahamic covenant is only applied to Abraham and his male offspring, and it is the term "male" to which we shall direct our attention now.

THE TERM זכר

By means of the probably deliberate distribution of the term זכר (male; 82/14) in the text of the *Biblia Hebraica Stuttgartensia*[29] an impressive terminological pattern has been created, by which six occurrences of the phrase זכר ונקבה (male and female) in the primeval story have carefully been connected with the patriarchal narratives. The first time "male" appears without its antonym "female" in the MT of Genesis ("female" occurs next in Lev 3:1), the divine command "every male among you must be circumcised" (NIV) is uttered for the first time. Hence it is exactly the *seventh* occurrence of the term "male" where the circumcision of the male member of the male members in Abraham's household is demanded. Does the author intend to point to the "perfection" of the sign of the covenant by using the term "male" the seventh time at this point? It is my contention that this question should be answered in the affirmative:

1:27		זכר ונקבה	ברא אתם
5:2		זכר ונקבה	בראם
6:19		זכר ונקבה	יהיו
7:3		זכר ונקבה	גם מעוף השמים שבעה
9		זכר ונקבה	שנים שנים באו אל נח אל התבה
16		זכר ונקבה	והבאים מכל בשר באו
17:10		זכר	המול לכם כל
12		זכר	ובן שמנת ימים ימול לכם כל לדרתיכם
14		זכר	וערל אשר...
23		זכר	כל באנשי בית אברהם
34:15		זכר	להמל לכם כל
22		זכר	בהמול לנו כל
24		זכר	וימלו כל
25		זכר	ויהרגו כל

In my view this terminological pattern provides another example of how the analysis of "form" brings to light its "content," for "the marking of a man's most

29 In Gen 7:2, where the Hebrew reads twice איש ואשתו (man and his wife), the Samaritan Pentateuch, the LXX, the Syriac and the Vulgate read "male and female." H. Seebass, *Genesis 1, Urgeschichte* (Neukirchen-Vluyn: Neukirchener Verlag, 1996) 205, correctly maintains that "MT hat gegen Sam, Vrs (P-Formel 'männlich-weiblich') die lect. difficilior." Furthermore, the LXX adds "male and female" in 7:15.

intimate member with the sign of the covenant"[30] is closely coupled with the call to *keep* the Lord's covenant, the verb שמר "keep" occurring only twice in Gen 17:9,10.

Preceding the divine promise given in v. 4, "as for me, this is my covenant with you. You will be the father of many nations" (NIV), for the first time in the Hebrew Bible mention is made of a human falling on his face before the Lord, ויפל אברם על פניו ("and Abram fell on his face"), and it is the verb נפל which will be scrutinized next.

THE VERB נפל

The overall distribution of the eighteen occurrences of the verb נפל (fall [upon]; prostrate; 434/18) in Genesis seems to be deliberate, too. According to the text before us Abraham, the forefather of the chosen people, is the first human of whom it is reported, "Abram fell on his face . . ." (17:4). It must not be forgotten that, according to the extant text of Genesis, this is by no means the patriarch's first encounter with the Lord (cf. 12:1, 7; 13:14; 15:1, 4, 5, 7, 9, 13, 18):

2:21	ויפל יי אלהים תרדמה על האדם		
4:5	ויפלו פניו		
6	ולמה נפלו פניך		
14:10	וינסו מלך סדם ועמרה ויפלו שמה		
15:12a	ותרדמה נפלה על אברם		
12b	והנה אימה חשכה גדלה נפלת עליו		
17:3	ויפל אברם על פניו		
17	ויפל אברם על פניו ויצחק		
24:64	ותפל מעל הגמל		
25:18	נפל	על פני כל אחיו	
33:4	ויפל על צוארו		
43:18	להתגלל עלינו ולהתנפל עלינו		
44:14	ויפלו לפניו ארצה	ויבא יהודה . . . ביתה יוסף . . .	
45:14	ויפל על צוארי בנימן אחיו ויבך		
46:29	ויפל על צואריו ויבך		
49:17	ויפל רכבו אחור		
50:1	ויפל יוסף על פני אביו ויבך		
18	ויפלו לפניו	וילכו גם אחיו	

In a gesture more powerful than words the "friend of God" (James 2:23) demonstrates his humbleness before the Lord and his readiness to listen to him; this,

30 Wenham, *Genesis 16–50*, 24.

his "perfect" attitude towards God, seems to be enhanced by way of the "perfect" position of the verb נפל.[31] Besides the seventh position, the verbal forms in the twelfth position (43:18) are quite conspicuous, because these are the only Hitpael/Hitpoel forms of the verbs נפל and גלל in Genesis. Furthermore it is only here in the Pentateuch that these two verbs, aptly describing the fear of Jacob's sons of being overpowered and seized as slaves, appear in close syntactic relation.

The arrangement of the last six occurrences of the verb, the interplay of ויפלו לפניו ("and they fell down before him") and ויפל ("and he fell"), give the impression of structural deliberateness. The prostration of Jacob's sons before the "Egyptian" ruler is spoken of more often than only in 44:14 and 50:18, but in all other cases the verb חוה (bow down; 42:6; 43:26,28) has been employed. In case this structural outline actually proves to be based on authorial intent, we may conclude that the extant text of the *Urgeschichte,* the patriarchal stories and even (part of) the Joseph story have been structured, as it were, by means of the verb נפל.

Conclusions

Whereas the terminological linkages based on the terms ברית, היה, זרע, and the correlation of the two verbs פרה and רבה support the literary cohesiveness of Genesis 17, the use of the terms עולם, קום, דור, זכר, and נפל form terminological links that string together the patriarchal stories with the preceding *Urgeschichte.* In view of these terminological patterns we may conclude that the methodology applied in this study, scrutinizing the distribution of each and every word of the extant text, has proved profitable. Through such scrutiny the distinct distribution of structurally significant terms in Genesis 17 has been brought to light.

If R. N. Whybray is correct in his evaluation of the present situtation in Pentateuchal studies that

> as far as assured results are concerned we are no nearer to certainty than when critical study of the Pentateuch began. There is at the present time no consensus whatever about when, why, how, and through whom the Pentateuch reached its present form, and opinions about the dates of composition of its various parts differ by more than five hundred years,[32]

it should be mandatory to make the extant text the sole basis for any future analysis. Since in analyzing the structure of a given biblical text our only option

31 W. Warning, "Terminologische Verknüpfungen und Genesis 12,1–3," *Bib* 81(2000)386–390, points to the fact that in the phrase ואעשך לגוי גדול ואברכך (12:2) each of the last three words appears the seventh time in Genesis.

32 Whybray, *Introduction,* 12.

is to choose between more or less substantiated hypotheses, not between a hypothesis and no hypothesis, we ought to be mindful that the reliability of theories is always conditioned by their degree of explanatory power. In the light of Whybray's assessment of the *status questionis* the reader is called upon to weigh the evidence and to decide for herself or himself whether the methodological approach presented here should be taken seriously. Since all we can aspire to is to elevate a possibility into a serious probability or, in other words, to propose a better hypothesis, a scrutiny of the extant text of the Pentateuch might gain in significance. The linguistic links brought to light underline both the structural and theological significance of the terminology employed in Genesis 17. The author of the *Endgestalt* has seemingly been successful in carefully composing the present text and hence his work can rightfully be called a masterpiece of ancient Hebrew literary craftsmanship.

This article is dedicated to Rolf Rendtoff, teacher of years, in gratitude and appreciation.

This Patriarchy Which Is Not One

The Ideology of Marriage in *Rashi* and *Tosafot*

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In this paper I track the commentaries of Rashi and the Tosafot across a number of Talmudic discussions that are central for the laws of marriage. What emerges from this investigation is that there is a dominant understanding of marriage articulated by Tosafot. Rashi is consistent in presenting a countervoice to the dominant ideology of the Tosafot – not *responding* to the Tosafists understanding, since he lived before them, but his position in the history of patriarchal ideas remains as a countervoice to the dominant opinion. Rashi understands that the woman's agreement to participate in marriage is necessary. It is not necessarily a "natural" thing for her to want to participate, therefore she needs an incentive. This investigation also isolates one point at which "descriptive statements" are given normative legal weight, and highlights the fact that this very move from descriptive to normative is itself contended.

This essay may be seen as part of a history of patriarchal ideas, the point of which is to challenge patriarchal or misogynistic assumptions. The analysis of the history of patriarchal ideas points to their internal conflicts and contradictions, and leads to the deconstruction of the implacable facade of eternal verity implied by the absolutist mode of their articulation – especially in legal writing.

Carol Pateman has argued that the sexual contract, and not "father right," is at the heart of patriarchy.[1] That is, prior to his ability to exercise his rights as a father, a man (as husband) contracted for the right to a woman's body. This is the sexual contract. Therefore, while civil society, at its point of (mythical) origin, might have overthrown the fathers' right to power in favor of a social contract, it was still a patriarchy – organized around the power of men. Pateman further argues that the sexual contract was displaced onto the marriage contract and assigned to the private realm (and rendered invisible). Men benefitted from the political power granted them in the social contract while women's subordination was reinforced in the sexual contract.[2]

This observation about the heart of patriarchy can be made in regards to the Halakhic tradition as well, as it took shape in the Jewish culture of the early medieval period out of the materials of Talmudic culture. The descriptive statements of the Talmud, which developed normative force as the Halakhic tradition progressed, naturalized the roles of husband and wife in the sexual contract.

This study tracks the commentaries of Rashi and the Tosafot on a number

1 Carol Pateman, *The Sexual Contract* (Stanford, Calif.: Stanford Univ. Press, 1988) 1–18.

2 This is discussed more fully below p. 12.

of *sugyot*, or Talmudic discussions, that are central for the laws of marriage. Within Jewish textual history and tradition, Rashi and Tosafot[3] — the former an eleventh and early twelfth century commentator on Talmud from Troyes in northern France, and the latter actually a school of commentary some of whose central figures were grandchildren of Rashi and also lived in northern France — have long since been melded into the Talmudic tradition and even into its textuality. The graphic presentation of the first (and every subsequent) printed edition of the Talmud performs this incorporation by flanking the Talmudic texts with these two commentaries. The presentation argues for a reading in which the three — Talmud, Rashi and Tosafot — are inextricably intertwined. The mutuality of this relationship is reinforced by the fact that the version of the Talmudic text that is in the printed editions is often set in accordance with Rashi's decisions.[4] The challenge, then, is to find, and press at, those places where it is most obvious that the commentaries are not merely explaining the text. My methodological assumption is that where there is an ongoing, unresolved (and unresolvable), persistent conflict of interpretation, the ideologies of the commentators surface most clearly. There is a need therefore to follow the conflict across different *sugyot*, to make certain that it is not local but rather represents the ideological investment of the commentator.

What emerges from this investigation is that there is a dominant understanding of marriage which is articulated by Tosafot. ("Tosafot" here is, in reality, standing in for the dominant interpretation of both the Franco-German schools and the Spanish schools of the early medieval period, with Rashi standing as an almost unique voice.[5]) The Tosafot operate under the Talmudic assumption that "more than a man wants to marry, a woman wants to be betrothed" and therefore men need an incentive to marry women and not the other way around. Rashi is consistent in presenting a countervoice to the dominant ideology of

3 I have opted to use the more traditional formulation "Tosafot" as if referring to a person, rather than the more awkward "the Tosafist(s)." I will use Tosafot to refer to anonymous statements in the comment and also to refer in general to those whose ideology of marriage is in general agreement with the school of Tosafot — just as I use the non-nuanced "Rashi" without constantly referring to the recent debates about whether or not there are interpolations into Rashi's commentary by his students, or whether Rashi's commentary to Ketubbot was wholly or in part written by his student. For the purposes of this paper, Rashi is the general name for one ideology and Tosafot for the other. For the current status of the debate about the "versions" of Rashi, and Rashi's authorship of earlier or later comments see Shamma Friedman, "Rashi's Talmudic Commentaries and the Nature of their Revisions and Recensions," (Heb.) in Zvi Arie Steinfeld, ed., *Rashi Studies* (Israel: Bar-Ilan Univ. Press, 1993) 147–75.

4 This is why in most instances when Rashi prefaces a remark with the phrase *hachi garsinan* "we learn/read thus," which is the term used to signal a variant preference, the printed text is usually in agreement with Rashi's "emendation."

5 Almost, since some of the "Rashi" commentaries may have been edited or written with Rashi's knowledge by his student; and see n.3 above and n.20 below.

the Tosafot. Rashi is not *responding* to the Tosafists' understanding, since he lived before them, but his position in the history of patriarchal ideas remains as a countervoice to the dominant opinion. Rashi understands that the woman's agreement to participate in the marriage system (i.e., to get married) is necessary. It is not necessarily a "natural" thing for her to want to participate, therefore she needs an incentive. This incentive is that she is guaranteed not to have to suffer protracted legal wrangling to get her *ketubah* payment, and the assumption of some agency for the woman — if only theoretical agency.[6] This acknowledgement of agency, or lack thereof, on the part of the woman is consistent across a variety of different discussions, and also impacts the degree of recognition of women's personhood before the law. This investigation also isolates one point at which "descriptive statements" are given normative legal weight, and highlights the fact that this very move from descriptive to normative is itself contended.

As a feminist project this investigation takes a path different from, but complementary to other attempts at rethinking history and culture. This study may be seen as part of a history of patriarchal ideas, the point of which is to challenge patriarchal or misogynistic assumptions. The analysis of the history of patriarchal ideas points to their internal conflicts and contradictions, and leads to the deconstruction of the implacable facade of eternal verity implied by the absolutist mode of their articulation — especially in legal writing. As a direct result of this type of analysis, the weighted choices of the patriarchal actors are laid bare and other choices present themselves — those paths less or not yet travelled which could make all the difference.[7]

I start with a *sugya* from *b.Gittin* 34b–35a.

> A widow does not collect from the estate of the orphans, etc.
> Why is the point [made in regard to] a widow, it is so [in regard to] everyone.
> Since we established "One who comes to collect from the estate of orphans shall not collect except by means of an oath."
> It is necessary to [state specifically the case of] a widow.
> It would have occurred to me to say that because of "favor" the Rabbis were lenient towards her [the widow] and she collects [from the orphans],
> This teaches us [that she does not].[8]

6 I am, of course, using the term agency to mean the power to do things in the world; the ability to freely make legally efficacious decisions; to be an actor rather than one acted upon. "Theoretical agency" is then agency which is only granted in theory, but not in practice. This latter is, of course, not real agency.

7 The point of this is not, as one reader has suggested, to surprise scholars with the conclusion that patriarchy is not monolithic, but rather to stress that — and analyze how — the legal *decisions* that were *accepted unanimously* were not ineluctable nor was the path from the question to the answer either uniform or inescapable.

8 The translation is mine. The text is that of MS Leningrad-Firkowitz I 187. My thanks to Rick Burke,

This *sugya* is generated by the Mishnah's statement (glossed in the first line of the Talmud quoted above) that a widow shall not collect from the inheritance of the orphans except by means of an oath. That is, in a case in which a man died his widow and his children each have standing before the court in a claim for inheritance – she on the basis of the *ketubah* – the marriage contract/prenuptial agreement[9] – and they on the basis of the laws of inheritance. The orphans are, however, given primacy in any dispute. Therefore the widow must take an oath that she has not already collected her *ketubah* payment before she is permitted to collect from the estate of the orphans (that is, the former estate of the husband).

The *stam* – the anonymous voice of the *sugya* – questions why it is necessary to make this law explicit in the case of the widow, since any creditor attempting to collect from the estate of the orphans is required to take an oath that the debt has not yet been satisfied. The questioner assumes at this point that the widow's standing before the court is the same as that of any other creditor's. For this reason her case would be merely a subset of the cases of creditors seeking to recover their assets from orphans.

The question is answered by positing a counterfactual hypothesis which is then dismissed. This rhetorical form: "It would have occurred to me to say X . . . This teaches us [not X]," is a commonplace of Talmudic argumentation. I have argued elsewhere that it is a form of writing under erasure: introducing a concept which will inform the continuation of the specific Talmudic *sugya* (or future [usually consecutive] discussions) "ideologically" though not legally – since it is always immediately dismissed (locally) as a legal argument.[10]

In the *sugya* here, the counterfactual hypothesis is that the Rabbis might have been more lenient in the case of a widow, and not have required her to take an oath, "because of her 'favor.'" An oath in a court is seen as a hardship by the Rabbis – and therefore an effective deterrent against those who would defraud orphans – and the possibility is raised and dismissed that the widow might not be obligated to undergo such a hardship.

This *sugya* serves to illuminate the ways medieval commentators on the Talmud understood marriage precisely because this "reason for leniency" is itself a site of conflicting interpretation. It is the unresolved – and ultimately unresolvable – dispute amongst the commentators over what "because of her

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University Librarian at the University of Judaism for his help in acquiring the microfilm of the manuscript.

9 For a recent discussion of the *ketubah*, which places it at a late date see Michael Satlow, "Reconsidering the Rabbinic Ketubah Payments," in Shaye J. D. Cohen, ed., *The Jewish Family in Antiquity* (Atlanta, Ga.: Scholars Press, 1993) 133–51.

10 Aryeh Cohen, *Rereading Talmud: Gender, Law and the Poetics of Sugyot* (Atlanta, Ga.: Scholars Press, 1998) chap. 6.

'favor'" means which will allow us entry into the cultural negotiation and unease around marriage.[11]

Rashi, the late eleventh-early twelfth century commentator from Troyes in Northern France, writes the following about "because of her 'favor.'"

> So that the men will find favor in the eyes of the women, so that the women will marry them.[12]

Rashi sees the woman's continued participation in the rites of marriage as the object of concern of the *sugya*. The counterfactual hypothesis proposed by the *stam* would be something like this: "The Rabbis might be lenient in the case of the widow, not requiring her to take a oath in order to collect her *ketubah* payment, so that she would not be dissuaded from remarrying. If however the Rabbis would not be lenient, she might just think that marriage is not worthwhile since the courts do not mean to enforce the prenuptial financial arrangements." There is a clear, perhaps surprising, recognition of the agency and volition of the woman. The surprise comes from the fact that the woman is almost totally passive in the Mishnaic and Talmud laws of marriage.[13] The man acquires the woman in marriage, and only he (except in extraordinary circumstances) may end the marriage. Therefore, thinking that women might exercise their option not to be a part of the marital system is a somewhat unexpected affirmation of agency.

This agency is seriously mitigated in the commentary of the Tosafot. The Tosafot do not comment on this phrase here but make their comment at the next occurrence of this claim as a counterfactual hypothesis at *b.Giṭṭin* 49b. In their comment they explicitly take issue with Rashi's comment quoted above.

> *Because of "grace"*: Rashi commented "So that the men will find favor in the eyes of the women, so that the women will marry them." This is a problematic explanation for in *b.Ketubbot* (84a) [we find the following:] "It is taught

11 Stanley Fish, *Is There a Text in This Class: The Authority of Interpretive Communities* (Cambridge, Mass.: Harvard Univ. Press, 1980) 174–80. For an analysis of the *sugya* itself see Cohen, *Rereading Talmud*.

12 שיהא חן האנשים בעיני הנשים לינשא להם.

13 For a comprehensive feminist analysis of women in Mishnaic law, see Judith Romney Wegner, *Chattel or Person: The Status of Women in the Mishnah* (Oxford: Oxford Univ. Press, 1988). E.g.: "In sum the mishnaic law of espousal treats the man as a person acquiring a chattel, and the woman as the chattel he acquires" (p. 45). For a more generous feminist reading of the material see Judith Hauptman, *Rereading the Rabbis: A Woman's Voice* (Boulder, Colo.: Westview Press, 1998). Hauptman argues that throughout the rabbinic period there were changes taking place, and that by the end of the rabbinic period a woman's status in marriage had changed from "chattel-like" to "second-class citizen" (60ff.). For a recent feminist analysis and critique of the marriage laws and

> in a Mishnah, R.Akiba[14] says give [the property] to the weaker amongst them." And there are those[15] who explain in the Talmud that [this refers to] the ketubah payment of the woman "because of her 'favor'." However, according to the explanation of Rashi the woman should not be called "the weaker" since actually the man is weaker for he needs to find favor in the eyes of the woman. . . . In truth, however, it is easier for a husband to find a wife than for a wife to find a husband. And as it says above [*b.Giṭṭin* 49b] "More than a man wants to marry, the woman wants to be married." It seems more correct therefore to explain according to Rabbenu Ḥanan'el who commented on "because of her 'favor'": so that all should be eager to marry her. . . .

Tosafot claims to find fault with Rashi's explanation for two reasons. First, in a discussion in *b.Ketubbot* the woman is adjudged legally "weaker" relative to a man. If, however, Rashi's understanding of marriage was correct, it is actually the man who is weaker since he must find favor with the woman rather than the opposite. According to the Tosafot, it is the one who is seducing who is weaker than the one seduced. The one cajoling is weaker than the one cajoled. The second difficulty with Rashi's explanation is that actually "it is easier for a husband to find a wife than for a wife to find a husband." This is because of the principle stated here in *Giṭṭin* and elsewhere[16] that "more than a man wants to marry, the woman wants to be married." It is a law of supply and demand of marriage: women are more eager to marry, therefore the pool of eligible men is more in demand, therefore it is harder for a woman to find a man.

It becomes obvious that this latter reason is the driving force behind Tosafot's problem with Rashi's explanation. Tosafot's "proof" from *b.Ketubbot* 84a is nothing more than an extension of Tosafot's reading here in *b.Giṭṭin* 49b. There is no neccesary reason to understand that the "weaker" in that *sugya* means weaker in relation to being able to or wanting to marry. In context it would seem that "weaker" is referring to the one whose claim is weaker. Rashi has no trouble interpreting the statement there within his interpretive framework. Rashi interprets the statement there as follows:

> she is called "weak" for it is not her way to go after the estate of the dead and to ask where he has land.

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ritual see Rachel Adler, *Engendering Judaism: An Inclusive Theology and Ethics* (Philadelphia: Jewish Publication Society, 1998).

14 In *m.Ketub.* 9:2 (MSS and printed editions) and in the Mishnah in the Bavli 84a, the statement is attributed to R.Tarfon.

15 In *b.Ketub.* 84a this statement is attributed to R.Yoḥanan.

16 *B.Yeba.* 113a, *b.Ketub.* 86a.

Rashi understands that the woman is characterized as weak because of some immanent characteristic. That is, women, by nature, do not investigate the affairs of the dead, and therefore would not be able to find out where he had land. This essentialist understanding constructs "woman" as a handicap that the Mishnah there makes up for by declaring the woman "weaker" and granting her first claim on certain parts of the estate.[17] Rashi then interprets the rest of the statement there ("the *ketubah* payment of the woman because of favor") along the lines that he employed in *b.Giṭṭin*:

> *because of grace:* so that the men will find favor in the eyes of the women and they will marry them, so that they do not worry that they will lose their *ketubah* [payment].

While the woman has a handicap by the fact of being a woman, she is still able to decide whether or not to play the game of marriage — and without her participation there is no game.

The Tosafot (*b.Giṭṭin*), on the other hand, are reading the line about "favor" through the lens of the end of that *sugya* — a perfectly legitimate and common move — where the statement about a woman's desire to marry is quoted. The quotation there is given added weight since it is introduced by the phrase *me'ikara detakanta* —"it is of the essence of the ordinance."

For these reasons Tosafot adopts the explanation of Rabbenu Ḥanan'el, an eleventh century sage from Kairouan in North Africa, that "because of her 'favor'" infers that the reason for the proposed leniency in the case of a widow is so that other men should want to marry *her*. That is, to return to our counterfactual hypothesis, we might have thought that since she needed our help in remarrying — since no man would want her if she was impoverished — we would be lenient and allow her to collect her money in a manner not in accord with the full mandated process (i.e., an oath). The Mishnah therefore spells out that widows are included in these regulations.

At this point then it seems that Rashi understands that for the marriage system to work, a woman's cooperation is necessary. Further, this cooperation must be acquired even to the point of (at least hypothetically) some legal compromise. Tosafot, on the other hand, assume that a woman's investment in the system of marriage is so great that it, for all intents and purposes, precludes the possibility of a woman's refusing to participate.[18]

17 Rashi's statement that "it is not her way" (*ein darkah*) alludes to the discussion at the beginning of *b.Qidd.* 2a–3a whose purpose is to naturalize the gendered roles of men and women, and where the phrases "it is the way of a man" and "it is not the way of a woman" punctuate the entire discussion.

18 A reader raises the important question of whether the Tosafists' difficulty with Rashi may be

Rashi makes his point in the most explicit way in a later discussion in *b.Ketubbot* (97b). There he comments on the phrase "because of her 'favor'":

> so that their husbands should seem gracious in their eyes (לחן בעיניהן) and the women will not refuse to be married to the men.

The interest of the [patriarchal] system, as Rashi sees it, is to convince women to go along with the system of marriage by keeping it fair, and making certain that women perceive it as fair. It is this that Tosafot does not recognize as a necessity since it is beyond the horizon of their possibilities that women will not want to participate.

The Talmudic discussion in *b.Ketubbot* (97a–b) is germane to our discussion since it weaves in another descriptive statement about women in general which then acquires normative consequences.

The *sugya* there is generated by a statement in *m.Ketubbot* 11:2, which discusses the manner in which a widow might liquidate her deceased husband's assets.

> A widow either betrothed or married may sell outside the court.

This law frees the widow — even in a case where the second step in Talmudic marriage (*nisuin*) had not been consummated — to sell her ex-husband's assets to support herself, without juridical supervision. This latter would have been the safeguard on the estate to ensure that the widow only sold as much as she was owed. The discussion in the Talmud proceeds as follows:

> Granted [in the case of] "married" because [she is owed] support.
> However [in the case of] "betrothed" what is the justification?
> 'Ulla says: 'because of her favor.'
> R.Yehudah says: 'because a man does not want his wife to be embarrassed in the court.'

Rashi's statement above is a comment on this statement of 'Ulla's. However, R.Yehudah introduces a different consideration. Even if there was no legal responsibility of the husband to pay support for his merely betrothed wife — it

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legitimately explained as a "formal one," rather than one which reflects a certain construction of gender. Without engaging the important question of where and if one can draw the line between a "formal" difficulty or explanation and one which is embedded in a larger cultural or ideological web, I would say the following. It seems to me that the usage of certain phrases such as: "In truth, however, it is easier for a husband to find a wife than for a wife to find a husband," betrays the ideological engagement. The fact that the Tosafists' positions seem to align with the general trend in the Talmud merely serves to highlight Rashi's position as a countervoice.

is still obvious that he would not have wanted to embarrass her. Therefore we might assume that he would not have wanted to compel her appearance in the court in order to liquidate his assets. This statement of R.Yehudah's – ostensibly beneficial to women – assumes, of course, that moving into the public sphere of litigation is in some way *ex definitio* embarrassing to women.

There is another "Rashi" comment on this statement, which adds a bit and differs slightly from the one we quoted above.[19] This comment is quoted in the medieval anthology *Shitah Mekubbetzet* as the "first recension" (*mahadura kama*) of Rashi.[20] In his comment "Rashi" combines these two reasons of 'Ulla and R.Yehudah.[21]

> *because of grace:* so that there will be grace for the men in the eyes of the women, so that they will say 'we will be married to a man.' For when a husband dies or divorces he doesn't want to embarrass her [by requiring her] to go to court.

Again "Rashi" reinforces an essentialist definition of women as private and whose appearance in the public judicial sphere is "unnatural." At the same time he recognizes her agency in deciding whether or not to participate in marriage as a whole.

The *sugya* continues by asserting that there is a legally significant difference between 'Ulla's opinion and R.Yehudah's opinion in the case of a divorcee. This is as a result of a Tannaitic statement which says: "A divorcee may only sell off [her husband's assets] in court." The *sugya* continues:

> Granted for the one who holds 'because a man does not want his wife to be embarrassed in the court.' He does not care about a divorcee.
> But for the one who holds 'because of her favor,' a divorcee is also in need of favor.

19 On the versions of Rashi's commentary and its authorship see the article by Friedman, "Rashi's Talmudic Commentaries" and the bibliography he reviews.

20 I.N.Epstein showed that *Mahadura Kama* of Rashi was actually authored by R.Yehuda bar Nathan, Rashi's very close student and son-in-law. R.Yehuda bar Nathan, Epstein says, "made extensive use of his teacher's comments, and he copied from them verbatim, with and without attribution." Quoted in Israel M. TaShma, *Talmudic Commentary in Europe and North Africa: Literary History Part I: 1000–1200* (Heb.) (Jerusalem: Magnes Press, 1999) 52.

21 It could be that the reason Rashi combines the comments is that in the better MSS the two comments are not written in "dispute form" (X said . . . Said Y) and therefore Rashi might be reading them as complementary rather than contradictory. On the "dispute form" see Shamma Friedman, "A Critical Study of *Yevamot X* with a Methodological Introduction," (Heb.) in H.Z.Dimitrovsky, ed., *Texts and Studies: Analecta Judaica* (New York: Jewish Theological Seminary of America, 1978) 1:349 and n.30.

This statement that a divorcee needs favor might at first glance seem more amenable to Tosafot's understanding of "favor" as leniency in order to entice a man to marry this poor woman. But Rashi holds firm:

> *a divorcee also needs favor:* the ordinance of "because of favor." For it is an ordinance of the Sages and not because of the love of the man; therefore what is it to me if she is beloved or hated.

Once it is a Rabbinic ordinance, a systemic necessity, the particulars of an individual situation are of little concern. Rashi is stressing the fact that it is not in any given situation that the principle of "favor" is applied. Rather, it is a systemic necessity that women perceive that their treatment is fair. This is independent of whether any specific man cares for any specific woman.

Further on in the *sugya* there is occasion for both Rashi and Tosafot to more fully spell out their ideologies of marriage. The *sugya* distinguishes between a widow who was only betrothed and a divorcee, claiming that the widow (betrothed but not married) does not have much favor (*la nafish ḥen didah*), but the divorcee does. As a result of this, the *stam* suggests, the divorcee needs favor.

Here again the ungrammaticality[22] of the phrase opens a window into the ideologies of the interpreters as this becomes another site of conflicting interpretations. Both Rashi and Tosafot add something to what we have already seen of their ideology of marriage. First, in commenting on the fact that the betrothed widow does not have much favor, Rashi adds an interesting facet to our notion of favor and marriage.

> *that she did not have much of her own favor:* for she didn't have the affection of sex (*ḥibat biah*), and it would not seem bad to the women if this one was burdened.

Ḥen is still, as in previous comments by Rashi, a function of the patriarchy drawing women into the system of marriage. Rashi adds a new wrinkle to what marriage is. The connection of the married couple is, at least in part, a function of "the affection of sex." There is a different sense of responsibility prior to and after the physical consummation of the marriage. Prior to that consummation, "the women" would have understood if the widow would not enjoy the benefit of not having to appear in court. The relationship had not yet been consummated.

This introduction by Rashi of "the affection of sex" into this *sugya* is note-

22 An ungrammaticality is a syntactical or grammatical problem, or a break in the narrative. Anything that disrupts the mimetic or representational understanding of the text is an ungrammaticality. It operates as a hermeneutic index, pointing to the possibility for a semiotic or intertextual reading. See Michael Riffaterre, *The Semiotics of Poetry* (Bloomington: Indiana Univ. Press, 1984).

worthy. The idea only occurs in one *sugya*, as part of an attempt to decide whether it is the marriage canopy (*ḥupah*) that effects acquisition or "the affection of sex." Interestingly, it seems that at this time in France (eleventh to twelfth centuries) there was a move towards a Christian theological model of marriage which included both consent of the parties and uniting the flesh (*unitas carnas*) or *conjugium consummatum*. This latter is especially associated with the writings of Gratian. As R. Howard Bloch has phrased it: "only in the mingling of the flesh is the contract transformed into a bond whose sacramental status cannot be revoked."[23]

While all Jewish theological/legal models of marriage in the middle ages included the possibility of divorce, it seems that Rashi is also stressing the *unitas carnas* as a focal point for when the responsibilities of the marriage contract are assumed. Also, similar to the Christian model[24] is Rashi's recognition of real consensuality.[25]

It is interesting to note that while the public realm of the judicial system — i.e., the court — has been defined as *ex-territoria* for women, the private moment of sexual conjugation has itself become public. It is this moment in the "private" sphere which would decide "the women's" attitude about the disposition of the deceased husband's estate. The Tosafot once again frame the issue in terms of supply and demand.

> *a widow out of betrothal is the one who does not have much of her own grace but a divorcee etc.*: Rabbenu Ḥanan'el explained — a divorcee has more grace since she has the additional payment [from the *ketubah*], and since she has so much to collect say that she should [be able to] sell not in court; one might also explain that she needs grace more in order to get married since she is more shamed than the widow.

The two explanations attributed to R. Ḥananel are both matters of economics. First the divorcee has more *ḥen* since she collects money from the estate. In other words, she is guaranteed suitors because of the *ketubah* payments. Or she

23 R. Howard Bloch, *Medieval Misogyny and the Invention of Western Romantic Love* (Chicago: The Univ. of Chicago Press, 1991) 184–85.

24 On the relationship between Rashi and Christian scholars and scholarship, see Sarah Kamin, *Jews and Christians Interpret the Bible* (Jerusalem: Magnes Press, 1991); Elazar Touitou, "The Historical Background of Rashi's Commentary on Genesis 1–5," (Heb.) and Rainer Berndt, "L'influence de Rashi Sur L'exegese D'Andre de Saint Victor," in Zvi Arie Steinfeld, ed., *Rashi Studies* (Israel: Bar-Ilan Univ. Press, 1993).

25 There is no legal possibility in Talmudic law for a woman in her majority to be married off against her will. However, as we have seen, Tosafot seriously erases the volitional character of the woman's agency. As we will see further on, it is even beyond the realm of creative possibility for Tosafot (as opposed to Rashi) to imagine a woman initiating a marriage.

needs more *ḥen*, i.e., money, since she is "damaged goods" as a divorcee and it would take more to convince a man to marry her.

This stark contrast between Rashi and Tosafot invites some comment. It needs to be noted that "the affection of sex" is the understanding from within the halakhic system. This is analogous to the way the statement "more than a man wants to marry, a woman wants to be married" is deployed in Talmudic discussions (and subsequently in the commentary/halakhic tradition). The saying, "more than a man wants to marry . . ." claims, rhetorically, to be a descriptive or empirical statement. The ideological impact of the statement, however, is to place women in a subordinate legal position. If the woman so wants to marry, there is no reason to offer legal incentives, or protections, to her. So too "the affection of sex" is an ideological statement claiming descriptive objectivity. In other words, it is the interests of the patriarchal system — the interests of the man — that are hiding behind the phrase "the affection of sex." A hermeneutics of suspicion would suggest that the phrase "assertion of conjugal right" or "sex right" would actually more adequately describe why it is that this moment should be the point at which a man's responsibilities towards a woman are finalized. It is this sex right (of the man) which is being asserted, at least partly, in the marriage contract.

Carole Pateman has claimed that the core of western marriage is the "sexual contract," and that this — and not father right — is at the heart of patriarchy. Moreover, it is the sexual contract and the sexual access that it provides to men, which guarantees political privilege to men in modernity. This is so for the following reason. Contract theorists understand the social contract as guaranteeing the freedom and equality of all individuals by their right to freely contract with other individuals. "Contracting" for the right of access to a woman's body is akin to a slave contract in that it puts one party to the contract at a subordinate position to another in regards to their ownership of their own person. Contracts in civil society are only between those who are equally empowered to contract. This then writes women out of the social contract, since their subordinate status is enshrined in the (invisible) sexual contract.

When the classic contract theorists mythologized the origins of society in the social contract — to the end of acquiring more individual freedom — half the story was left untold. That is, according to Pateman, the sexual contract was "displaced onto the marriage contract" and assigned to the private realm. Men benefitted from the political power granted them in the social contract while women's subordination was reinforced in the sexual contract. Men's contracted access to women's bodies exclude the women from the public realm of the social contract.[26]

By displacing the sexual contract onto the marriage contract, contract theo-

26 Carol Pateman, *The Sexual Contract* (Stanford, Calif.: Stanford Univ. Press, 1988) 1–18; 118ff.

rists could argue that marriage was voluntarily entered into by two people, one of whom agreed to relinquish much of her freedom. Access to a person's *body* however is more akin to a slave contract (considered problematic by most contract theorists) than to any other contract between free individuals. For this reason it was necessary to speak of the marriage rather than the sexual contract.[27]

Rashi's use of "the affection of sex" or, rather, Rashi's admission that sex right is what is being contracted for, is a result of the fact that he, like some of the classic contract theorists, is attempting to explain how it is that a woman of her own volition – rather than as a result of a "natural compulsion" or "natural order of things"– contracts into marriage.

This reinforces the difference between the ideology of marriage in Rashi and Tosafot. Starting from a point at which Rashi recognizes that a woman has agency in marriage, and to that extent the success or failure of the system is dependent on her cooperation or collaboration, he is forced to highlight the sexual nature of the marriage contract itself. Tosafot on the other hand, effaces the contractual nature of the sexual arrangement by the implication that women's acting within the system *per se* is, for all intents and purposes a given, and not subject to denial. That is, women want so much to be married that the contractual nature of the relationship is almost beside the point.[28] Rashi acknowledges that "the affection of sex" is really "sex right" in a comment in another context.

The first Mishnah in the fifth chapter of *b.Ketubbot* discusses the *ketubah* payment and exceptions to the rule.

> Even though they said: a virgin collects two hundred and a widow one hundred –
> If he wants to add even a hundred hundred, he may.
> If she is widowed or divorced, either [at the stage of] betrothal or marriage – she collects the full amount.
> R. Elazar b. Azariah says: [at the stage of] marriage – she collects the full amount; [at the stage of] betrothal – a virgin collects [only] two hundred, and a widow one hundred,
> for he only wrote [the extra amount] for her in order to marry her.

R. Elazar b. Azariah states that even if a man had included a provision in his *ketubah* for a greater payment than the mandated payment (of two hundred or one hundred), his widow or divorcee only has a right to that money if they

27 Pateman, *The Sexual Contract*, 39–76.

28 It is important once again to stress that this is the ideological weight carried by the marriage system, albeit an ideological burden which has legal ramifications. However, it remains that formally no woman in her majority may be married or given in marriage against her will.

had actually been married. That is, if they completed the second stage of the marriage process, *nisuin*. If he died or divorced her after betrothal (*erusin*) she has no claim on the money.

In the subsequent discussion in the Talmud (*b.Ketubbot* 55a) the *stam* wants to claim that R. Nathan,[29] a later sage, said that the law is according to R. Elazar b. Azariah. The argument is that in another case R. Nathan holds that the law is according to one who argues that we go according to logical assumption, therefore here too, R. Nathan would hold with R. Elazar b. Azariah who argues that we go according to assumption – the assumption that "he only wrote [the extra amount] for her in order to marry her." Rashi comments on the phrase "logical assumption" (*umdenah*):

> In a matter that is not explicit the court estimates and says 'the average person intends this, that he [the husband] is not ascribing her money [in the *ketubah*] for anything other than the affection of sex.

Rashi is translating the Mishnah's "in order to marry her" (literally "in order to gather her in") into sex right. The man would only have given her the additional money for the sex right. If the transaction was not completed (according to R. Elazar b. Azariah) the payment need not be made. "The affection of sex" is clearly then "sex right" from the perspective of the patriarchy.[30]

This basic understanding of marriage also impacts the way Rashi and Tosafot understand other *sugyot*. The *sugya*, *b.Qiddušin* 4b, in a discussion whose purpose is to identify the Biblical source-text for the efficacy of money as a manner of marital acquisition, comes to the conclusion that there are two verses from which money as a manner of acquisition is derived (Deuteronomy 24:1[31] and

29 The attribution to R. Nathan is not certain. In parallel *sugyot* the attribution is to either R. Yonatan or R. Yoḥanan. There is manuscript evidence in favor of R. Yonatan, though not overwhelming. (And cf. Rabbi Moshe Hershler, ed., *The Babylonian Talmud with Variant Readings: Tractate Kethuboth* [Jerusalem: Institute for the Complete Israeli Talmud, 1977] 2:6, nn. 32–34.) While the Tosafists argue strongly for the attribution to R. Yonatan (*b.Mena.* 30b *s.v. veha*), Rashi, in his comments on the *sugya* here (56a *s.v. travayhu*) has R. Nathan. One of the arguments for the attribution to R. Yonatan is that R. Natan lived significantly earlier than Rav with whom he is in dispute. The form of the statements, however, is not a dispute form, so there is no assumption of a dispute among coeval participants.

30 Another discussion which intersects with this one at something of an oblique angle, is the discussion of the *birkat betulim* and the relationship between "tokens of virginity" and the formalization of marriage in Christian Europe in the eleventh century. Cf. Ruth Langer, "The *Birkat Betulim*: A Study of the Jewish Celebration of Bridal Virginity," *PAAJR* 61(1995)66–77 and n. 66.

31 When a man takes a wife, and marries her, if then she find no favor in his eyes, because he has found some indecency in her, and he writes her a bill of divorce, and puts it in her hand, and sends her out of his house.

Exodus 21:11[32]). The *stam*, the anonymous voice of the Talmudic discussion then attempts to show why both verses are needed. This is a classic midrashic move. Having two verses to prove a law is an unacceptable redundancy in the Torah, whose divine origin does not allow for scriptural promiscuity. The task of the midrashist, or exegete, is to show that both verses are actually necessary as neither would alone supply the justification for the law in its totality. After demonstrating that indeed Exod 21:11 is necessary, the *sugya* ends with the following:

> And if the Torah had [only] written: "then shall she go out for nothing," I would have thought that where she gives him [money] and betroths him, it is indeed a betrothal.
> [Therefore] the Torah wrote "If he takes" and not "if she takes."

In this fashion the *sugya* proves the necessity of both verses, and also reinforces the safeguards against women betrothing. The question that provides interesting insight here is, "What might this theoretical case of a woman betrothing look like?" Rashi comments:

> *where she gives him:* money, and she betroths him, for she said to him "be betrothed to me."

This seems to be the simplest reading of the text: She gives him the money and says the formula. Tosafot, however, have a problem with this scenario.

> *where she gives him [money] and betroths him:* Rashi explains that she says to him "behold you are betrothed to me."[33] This, however, is difficult, for behold the language of being betrothed does not apply to a man – for he is not forbidden to any other women. [Therefore] we should explain that she says "behold I am betrothed to you." And, too, we must say that the phrase "she gives him" is not exactly intended since it is her father who accepts the money of the betrothal. Rather, what is intended is that she makes the statement.

The possibility that the women would be the active party in the contracting of a marriage is beyond the horizon of possibilities of Tosafot. The language does not even bear the semantic possibility of her betrothing him. Ultimately,

32 And if he does not do these three things for her, she shall go out for nothing, without payment of money.

33 In Tosafot's citation of Rashi the formula is exactly the same (that is, the exact opposite) as the formula used by a man.

the Talmud's case did not intend to imply that she might have given him the money either. Rather, it must be that he gave the money to her father and she said "behold I am betrothed to you."

Again, the possibility of a woman's agency, even in a theoretical situation, is not admitted. Rashi, on the other hand, admits that the theoretical possibility exists. This is actually not a simple concession on his part. A good deal of rhetorical effort is expended in the early part of tractate *Qiddušin* showing that it is "natural" for men to betroth and for women to be betrothed. Part of the opening *sugya* of *b.Qiddušin* questions the grammatical gender of the word "way" or "manner" (*derek*), as in the opening of the first mishnah: "A woman is acquired in three ways. . . ." Acknowledging that the Hebrew *derek* can be either masculine or feminine, the *sugya* distinguishes between various biblical usages of the word *derek* based on whether the *activity* is seen as masculine or feminine. For example, one masculine usage of *derek* in relation to war is explained as follows: "For it is the way of a man to wage war, while it is not the way of a woman to wage war" (2b). It becomes obvious that *derek* here is referring to a "way" that is "natural" when in the continuation of the *sugya* we find the statement: "It is the way of an *ethrog* to grow with any kind of water. . . ."

For our purposes, the relevant statement in the *sugya* (2b) is the following from a *baraita* which is also generated by a midrashic reading of Deut 24:1.

> . . . For it is the way of a man to pursue a woman [for the purposes of marriage] and it is not the way of a woman to pursue a man.
> This is analogous to a man who has lost an object
> Who pursues whom?
> The owner pursues the lost object.

As Rashi points out *ad locum*, the lost object is the rib that Adam "lost." This places the origins of the gendered roles of pursuer and pursued at the earliest point in the existence of humans. It is part of their genetic code, as it were. This is the "natural" way.

Rashi's comments on 4b and elsewhere serve to undermine the "naturalness" or givenness of this situation. The fact that there is no legal difference between the positions of Rashi and Tosafot points to the fact that the debate is about the ideology and not the practice of marriage. Both agree that women cannot betroth men. Tosafot think that this is a natural impossibility, while Rashi understands this as a matter of law.

The next text that I will analyse comes at the end of the first long *sugya* in *b.Qiddušin* (3a), the *sugya* that attempts to naturalize the gendered roles of men and women in marriage and marrying. The discussion starts with a question based

on the first Mishnah of the tractate. The Mishnah enumerates the three ways in which a woman can be acquired and the two ways that she may, in the language of the Mishnah, reacquire herself. The Talmud makes problematic the fact that in addition to *listing* the manners of acquisition (money, contract and sex) the Mishnah *states* that there are three of them ("A woman is acquired in three ways . . . "). Why does the Mishnah need to state this, is it not obvious?

The basis for the question is, of course, a midrashic approach to the text of the Mishnah similar to the approach of the midrash to the text of Torah – there can be no redundancy in the text. In our case the Mishnah's author must have intended some teaching by including the number of listed manners of marital acquisition in addition to listing the manners themselves.

The anonymous voice of the Talmud, the *stam*, assumes that a number was written in order to stress that there are three and no more. The next obvious question is raised: what is to be excluded? Two answers are given. The first answer is that the Mishnah is excluding *ḥupah*, entering under the wedding canopy, as a manner of acquisition. This is fine in general, but there is one opinion attributed to R. Huna, that *ḥupah*, actually does serve as a method of acquisition. What then is excluded according to R. Huna? The answer proferred is that acquisition by symbolic barter (*ḥalipin*) is excluded. Symbolic barter is a mode of acquisition wherein an object is acquired by way of acquiring another symbolic object, oftentimes a scarf or kerchief, and therefore this form of acquisition is also called *kinyan sudar* or "acquisition by scarf." The *stam* then explains:

> It might have occurred to you that I would say –
> since I derived [acquisition by way of the *gezera shavah* method]
> "acquiring" "acquiring" from the field of Ephron,
> just as a field is acquired by symbolic barter so too a woman is also acquired by symbolic barter.
> This [the (exclusive) number "three"] comes to teach us [that this is not the case].

Again we are confronted with a counterfactual hypothesis. This one is based on the manner in which, earlier in the tractate, marital acquisition of a woman by way of money was derived. The method used was *gezera shavah*. This method is also based on the assumption that every word in the Torah is ultimately intended. Therefore, if a similar word appears in different contexts, one context may be used to inform the other. This manner of intertextual reading in this case produces the following. Marriage law is derived from Deut 24:1 "When a man takes (*yikaḥ*) a wife, and marries her. . . ." The same verb is used in connection

with a monetary acquisition – the acquisition by Abraham of a burial plot from Ephron in Genesis 23. Abraham proposes the deal with Ephron in verse 13 with the following statement: ". . . I will give the price of the field; take (*kaḥ*) it of me. . . ." The usage of the verb "taking" in this context which obviously implies monetary exchange, authorizes the understanding of "taking" in Deut 24:1 as monetary exchange.

Once this is in place, the *stam* explains, there is a need to emphasize that there is not a wholesale equivalence of the acquisition of fields and marital acquisition. This is accomplished by the exclusionary number "three" which is read as *only* three and not symbolic barter – even though that manner of acquisition is proper for fields.

Following this explanation of the need to exclude symbolic barter the *stam* offers a reason that symbolic barter is not efficacious.

> And I will say also – symbolic barter is also [accomplished] with less than the equivalent of a *prutah*, and a woman will not allow herself to be acquired for less than the equivalence of a *prutah*.

The fact that symbolic barter is just that – symbolic – means that there is no need for the object bartered to be worth the smallest amount for which a woman could be acquired, a *prutah* coin. A woman therefore would not allow herself to be acquired by way of symbolic barter. Rashi, commenting on this phrase, says the following:

> *will not allow herself to be acquired:* for it is a disgrace to her. Therefore the manner [of acquisition] of symbolic barter is invalidated for betrothal, and even a vessel that has the equivalence of a *prutah*, if he gives it to her with language of symbolic acquisition [it is no good] until he gives it to her in the manner of the language of acquisition (*kinyan*) or taking (*kiḥah*) or betrothal (*qiddušin*).

For Rashi, the fact that this manner of acquisition is a disgrace invalidates it as a marital acquisition in any form. Even if the man uses the Hope diamond for a symbolic barter it is still seen as degrading to the woman since it partakes of a manner of acquisition which denies her worth as a person. It is the woman's own understanding of her personhood ("a woman will not allow *herself* to be acquired for it is a disgrace to *her*") that determines that this manner of acquisition is invalid.

Tosafot interpret the phrase in a very different way. After first challenging Rashi's understanding, the Tosafot, (in a statement attributed to Rabbenu Tam, Rashi's grandson), offer the following:

> *and a woman will not allow herself to be acquired for less than the equivalent of a prutah*: . . . Therefore it seems to Rabbenu Tam that the text should read "a woman can not be acquired for less than the equivalent of a *prutah*," and we do not read "will *not allow herself*" since the matter is not dependent on [her] objection. Rather, this is the reason. [The Talmud] derived "acquiring" "acquiring" from the field of Ephron, wherein it is written "money," and less than a *prutah* is not considered money. . . .

Tosafot challenges Rashi's assumption that it is the woman's own understanding of her personhood that counts. The statement attributed to Rabbenu Tam vigorously denies that possibility. To him it is merely a technical matter of law. Acquisition, we learned, means money. Less than a *prutah* is not money. Therefore a woman cannot be acquired for less than a *prutah* just as nothing else can be acquired for less than a *prutah*. "[T]he matter is not dependent on [*her*] objection." This is the crux of the dispute between Rashi and Rabbenu Tam.

Rabbenu Tam feels strongly enough that he emends the text according to his understanding. This is an interesting move since we have no manuscript evidence which accords with Rabbenu Tam's reading. The text as recorded in the *Halakhot* of Alfasi which (as opposed to the manuscripts) dates from a period earlier than Rashi and Tosafot (and has its own independent transmission history), has the text as Rashi and the manuscripts and our editions have it: "will not *allow herself*."

In this, as in the previous instances, Rashi expresses a recognition of the humanity and personhood of women. In recognizing this, Rashi also recognizes the (albeit limited) agency of a woman. *She* will not allow herself to be acquired for less than a *prutah*. This, of course, does not bring him to challenge the notion of acquisition *per se*. However, within this circumscribed area, Rashi voices the consideration of the subjectivity and personhood of women. Tosafot, on the other hand, cannot see this. They are so acutely unable to envision the possibility of a woman's agency that they cannot let the text stand as written.

In this study I have isolated several moments in which the calm surface of the patriarchal sea of Talmud is broken by internal disagreements over the cultural construction of gender. All these moments were moments of legal ventriloquism – male commentators voicing the thoughts of "women." Still, this type of investigation is very instructive. First, focussing on the moments at which the ideological consensus is being negotiated destabilizes the notion of a monolithic eternal patriarchy. The patriarchy in formation is a patriarchy that can be undone, or done differently.

Second, in attempting to understand the ideological investments of Rashi

and Tosafot I avoided the discussion of women's status[34]— a discussion which assumes that there is a stable concept of woman which then gains higher or lower status at different times.[35] This discussion showed, in part, that it is the construction of gender which is at issue, and which is itself up for negotiation. In a sense this is exactly the opposite of the "women's status" model. The legal outcome ("status") might be stable across commentators and ages (e.g., a woman is not allowed to betroth a man), while it is the concept of "woman" which is contested.

Third, this type of investigation avoids the *aporias* of another type of intellectual history of medieval Talmud commentators. That type of investigation revolves around the ultimately unanswerable question of whether the discussions of the commentators were formed by the "reality" or whether the commentators discussed and decided on the basis of internally coherent ahistorical principles which were not buffeted by the winds of social reality.[36] By not attempting to divine this type of motive, but rather concentrating on the explicit moments of tension, it may be possible to write a different type of history of ideas.

A much shorter oral version of this paper was presented to the Talmud Faculty Colloquium at the University of Judaism. I would like to thank Prof. Eliezer Slomovic and Rabbi Ben Zion Bergman for their helpful comments at that presentation. I would also like to thank my colleague Dr. Charlotte Fonrobert for her comments on many drafts of the current essay; and Prof. David Ellenson, whose insights and friendship were crucial for the completion of the current version of the essay. I thank the anonymous critical readers of HUCA for their careful and thoughtful comments.

34 Cf. e.g., Israel M. TaShma, *Ritual, Custom and Reality in Franco-Germany, 1000–1350* (Jerusalem: Magnes Press, 1996) 262–79.

35 Cf. Miriam Peskowitz, *Spinning Fantasies: Rabbis, Gender and History* (Berkeley, Calif.: Univ. of California Press, 1997) 20–25.

36 Cf. E. E. Urbach, *Ba'alei Hatosafot* (Heb.) (Jerusalem: Bialik Institute, 1986); Jacob Katz, "'al *ba'alei hatosafot* l'Ephraim E. Urbach," in *Halakhah and Kabbalah* (Jerusalem: Magnes Press, 1984) 340–49; TaShma, *Ritual, Custom and Reality*, 13–35.

Rearrangement of Pentateuchal Narrative Material in Josephus' *Antiquities*, Books 1-4

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Although he promises to set forth all the details of the Bible each in its proper place, Josephus in fact rearranges many words and episodes. In this he accords with the principles set forth by Dionysius of Halicarnassus, Diodorus, Pseudo-Longinus, and Quintilian. In the narrative portions of his paraphrase of the Bible he not only takes liberties with the actual details but he carefully avoids non sequiturs and digressions within a given episode, preserves continuity on a given subject once he has begun it, adheres to a logical and temporal sequence and a causal relationship between events, provides a smoother transition between episodes, clarifies connections, omits or abbreviates embarrassing details, answers anti-Jewish charges, increases the dramatic tension in a rhetorically sophisticated manner, enhances romantic elements, maintains the emphasis on key figures, adds to the greatness of Moses in particular, increases respect for non-Jewish leaders, avoids duplications, avoids discrepancies and contradictions, and explains details that are not apparent from the biblical text.

In a famous statement (*Antiquities* 1.17) Josephus on the one hand promises that he will "set forth the precise details of what is in the Scriptures according to its proper order, . . . neither adding nor omitting anything." On the other hand, he admits (*Ant.* 4.197) that he has innovated[1] in rearranging the order of topics, since, as he says, Moses left what he wrote in a scattered condition, just as he had received it from God.[2] Josephus quite clearly feels guilty about taking this liberty, since he is quick to add that he considered it necessary to mention it beforehand,

1 Étienne Nodet, *Flavius Josèphe, Les antiquités juives* (2 vols.; Paris: Les Éditions du Cerf, 1995) 2:48, n. 4, remarks that the word νεωτερίζω ("innovate"), especially in the passive voice, as here, as well as its derivatives, normally has negative connotations, especially in the *War*, with implications of violence, referring to insurrections. In classical literature, e.g., Thucydides (1.58, 2.3, 4.51) and Xenophon (*Hellenica* 2.1.5), it likewise frequently has such associations. Here, however, it has the neutral meaning of "innovate." Nodet, consequently, thinks that this is a trace of a literary collaborator, such as Josephus admits he had for the *War* (*Against Apion* 1.50).

2 Menachem Elon, *Jewish Law: History, Sources, Principles* (4 vols.; Philadelphia: Jewish Publication Society, 1994) 3:1055, n. 72, notes that although Josephus here claims to have innovated this type of organization in his discussion of the laws of the Torah, actually he had been anticipated by Philo's *De Specialibus Legibus*. Cf. the talmudic maxim (*Pesaḥim* 6b and parallels) that there is no "earlier" or "later," that is, that there is no chronological order, in the Pentateuch.

"lest some blame be assigned to us for having erred by my fellow countrymen who read this work."[3] However, if we examine the statement in *Ant.*1.17, we see

3 We may well ask why Josephus should feel guilty when there were already other texts circulating in the Jewish community in which the Scriptures had been "rewritten." It may be useful to list these texts, the most obvious of which is the Septuagint. But it is significant that even though Josephus could have cited the Septuagint as a precedent for the liberties that he has taken with the biblical text, he does not do so. He rather cites it as a precedent for the very fact of translating the Scriptures altogether and to show that non-Jews are interested in the Jewish Scriptures (*Ant.*1.9–10). Of course, one may counter with the fact that the Septuagint does take liberties with the biblical text, so that it is, in fact, a "rewritten" Bible. But the very fact that these changes had to be presented as having divine sanction, by implication, in the *Letter of Aristeas* (307–10) and in Philo (*De Vita Mosis* 2.7.37–38; who denies that it is a "rewritten" Bible when he states that the translators acted under inspiration [ἐνθουσιῶντες] since they all arrived at exactly the same translation, "as though dictated to each by an invisible prompter"), would explain why Josephus does not cite it as a precedent. The rabbis (*b.Meg.* 9a–b) refer to the miraculous manner in which the seventy-two translators, placed in seventy-two separate rooms, had emerged with identical translations because of divine inspiration. Josephus could not and did not make such claims. Hence he felt apologetic. The fact that the most popular and most influential rabbi of Josephus' time, Rabbi Akiva (50–135 C.E.) insists (*b.Pesah.* 21b), that the Torah contains no redundancies and that even a particular spelling (where an alternative spelling is possible) is deliberate indicates how strongly he felt that no changes of any sort should be made. According to Jerome (to Isaiah 7:14), Akiva inspired his disciple Aquila, a convert, to write a new, completely literal, translation of the Bible.

Other texts where the Scriptures have been, to a greater or lesser degree, "rewritten" are those of Demetrius, Eupolemus, Pseudo-Eupolemus, Artapanus, Cleodemus Malchus, Aristeas, Pseudo-Hecataeus, Theophilus, Thallus, Justus of Tiberius, Theodotus, Aristobulus, Philo the philosopher, Pseudo-Philo's *Biblical Antiquities*, Philo the epic poet, Ezekiel the tragedian, Pseudo-Orpheus, and certain of the Dead Sea Scrolls. We may ask whether these had been circulating in the Jewish community. We also may ask whether the so-called Jewish historians listed above are, in fact, Jewish (see my *Josephus's Interpretation of the Bible* [Berkeley: Univ. of California Press, 1998] 20–21, n.7). In any case, it is worth noting whether Jewish authors or works cite them. Demetrius is cited by Clement of Alexandria and Eusebius and none others; Eupolemus is cited by Clement and Eusebius and none others; Pseudo-Eupolemus is cited by Eusebius and none others; Artapanus is cited by Clement and Eusebius and none others; Cleodemus Malchus is cited by Josephus and Eusebius and none others; Aristeas is cited by Eusebius and none others; Pseudo-Hecataeus is cited by Josephus, Clement, and Eusebius and none others; Theophilus is cited by Eusebius and none others; Thallus is cited by Julius Africanus, the Christian Theophilus, Tertullian, Georgius Syncellus, and John Malala and none others; Justus of Tiberius is cited by Diogenes Laertius, Eusebius, Julius Africanus, and Josephus and none others; Theodotus is cited by Eusebius and none others; Aristobulus is cited by Clement and Eusebius and none others; Philo the philosopher is cited by Josephus and a number of Christian writers and none others; Pseudo-Philo is cited by no one; Philo the epic poet is cited by Eusebius and none others; Ezekiel the tragedian is cited by Clement, Eusebius, Pseudo-Eustathius, and Epiphanius and none others; Pseudo-Orpheus is cited by Pseudo-Justin, Clement, Eusebius, Cyril of Alexandria, Theodoret, and none others. The Dead Sea Scrolls are cited by no one. What will strike one when examining this list is that these rewritten Scriptures are cited mostly by Christian writers and by very few Jewish writers. When Josephus himself (*Apion* 1.218) seeks to establish the antiquity of the Jews, he cites several historians — Demetrius of Phalerum, the elder Philo, and Eupolemus — but he presents them as non-Jewish historians. Moreover, in a seminal, though admittedly disputed article (see my "Pro-Jewish Intimations in Anti-Jewish Remarks Cited in Josephus' *Against Apion*," *JQR* 78 [1987–88] 230–43), Victor Tcherikover ("Jewish Apologetic Literature Recon-

that what Josephus has promised is not that he will present the details precisely as they appear in Scripture but rather that he will set them forth *each in its proper place* (κατὰ τὴν οἰκείαν τάξιν). It is almost as if Josephus the general in Galilee is speaking, since the word that he uses for "place" or "arrangement," τάξις, is regularly used in the sense of "battle array," especially in Thucydides (4.72), Josephus' favorite historian.[4]

We may note, for example (*Ant.* 8.224), that Josephus justifies such rearrangement when departing from the biblical order in the narrative of Rehoboam and Jeroboam, indicating that he intended in this way to preserve an orderly arrangement (εὔτακτον) throughout his history. Thus, the Bible (1 Kings 12:1), having started its account of how the Kingdom of Israel came to be established under the leadership of Jeroboam, continues (1 Kgs 12:25–33) with the deeds of Jeroboam: his establishment of idol worship, the denunciation of him by a prophet (1 Kgs 13:1–10), the death of the true prophet (1 Kgs 13:11–26), the prediction by the prophet Ahijah of the horrible end of the House of Jeroboam (1 Kgs 14:1–16), and the death of Jeroboam (1 Kgs 14:19–20). Rehoboam ruled during the same period (928–11 B.C.E.), but died four years before the death of Jeroboam; yet we hear nothing about what Rehoboam was doing during the same period until after the Bible has completed its account of Jeroboam's reign and death. Josephus (*Ant.* 8.246–65a), however, aware of the value of seeing a picture of what was going on contemporaneously, since the events of the two kingdoms had great influence upon each other, interrupts his account of Jeroboam's reign to tell us what Rehoboam was doing during these years and only thereafter resumes the account of the last years of Jeroboam (*Ant.* 8.265–89).

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sidered," *Eos* 48[1956]169–93) challenges the widespread views that the distribution of books in the ancient world was similar to that of modern times, that books were produced in large numbers of copies and were sold in thousands of shops and sent to distant countries, and that famous authors had their own "publishers" who profited from these sales. Furthermore, very few scraps of the Septuagint have been found among the papyri, and none at all of the alleged Graeco-Jewish writers noted above. Apparently, the "rewritten" Bibles were not widely disseminated, at least among Jews.

4 There has been no systematic study of Josephus' rearrangement of biblical data, let alone of the reasons for the rearrangement. Yigael Yadin, ed., *The Temple Scroll* (Heb.) (4 vols.; Jerusalem: The Israel Exploration Society, 1977) briefly (1:62, 93–94, 305) compares the legal sections in Josephus' *Antiquities*, Books 3 and 4, with the laws as delineated in the Temple Scroll and notes that both present the laws of the Torah classified by subjects. He suggests that the fact that Josephus spent some time with the Essenes (*Life* 10–11) influenced him in his classification of the laws. David Altshuler, "On the Classification of Judaic Laws in the *Antiquities* of Josephus and the Temple Scroll of Qumran," *AJSR* 7–8(1982–83)1–14, presents a chart, pp. 3–4, summarizing the basic structure of Books 3 and 4 of the *Antiquities* but comments, in only the most cursory fashion (pp. 4–6), on the reasons for the connection of the various sections with one another, namely that the rearrangement serves the larger apologetic goals of the *Antiquities*. Altshuler, 11–13, briefly compares the legal sections of the *Antiquities* with those of the Temple Scroll and concludes that there is little evidence to support Yadin's suggestion that Josephus borrowed from the Temple Scroll in arranging the legal sections of the *Antiquities*.

In his rewriting of biblical material, Josephus, as Alexander and Goldenberg,[5] among others, have noted, is paralleled by a number of writings that have come down to us, notably the Bible itself (especially in the Book of Chronicles), the Septuagint, Philo, Pseudo-Philo's *Biblical Antiquities*, Jubilees, Graeco-Jewish writers such as Demetrius, Philo the Elder, Eupolemus, Pseudo-Eupolemus, Artapanus, and Ezekiel the Tragedian, Jubilees, Pseudo-Phocylides, fragments found among the Dead Sea Scrolls (notably the *Genesis Apocryphon*), and rabbinic midrashim and targumim. But rearranging is a particular type of rewriting. Thus Demetrius (*ap.* Eusebius, *Praeparatio Evangelica* 9.21.1–19) is very much concerned with chronology and fixes particular dates for particular events but, at least in the extant fragments, does not rearrange the order of the events themselves. Again, the fact that his explanation (*ap.* Eusebius, *Praeparatio Evangelica* 9.29.16) of how the Israelites departing from Egypt obtained weapons (namely, through appropriating the weapons of the drowned Egyptians at the Sea of Reeds) is similar to that of both the midrashic tradition (*Mekilta de-Rabbi Ishmael, Beshallah*, Introduction [ed. Horovitz, p.77] and *Midrash Exodus Rabbah* 20.19) and Josephus (*Ant.* 2.349) is not a matter of rearrangement of the *order* of details, but still shows that Demetrius, Josephus, and the midrash are all part of a larger intellectual-traditional world when it comes to exegesis in the broader sense. This is not to deny that Josephus parallels other sources, notably the rabbinic tradition, Philo, and Pseudo-Phocylides, in rearranging biblical *legal* material. But, as a matter of fact, when it comes to rearranging the order of *narrative* data, despite the fact that Philo deals at such length with the biblical narrative in treatise after treatise, there is not a single instance where he changes the order of biblical details, let alone where he parallels the changes in *rearrangement* that we find in Josephus. Nor do we find changes in the rearrangement of the narrative in the other writers listed above, with the exception of a very few instances in Pseudo-Philo[6] and in midrashic literature.[7]

5 P. S. Alexander, "Retelling the Old Testament," in D. A. Carson and H. G. M. Williamson, eds., *It Is Written: Scripture Citing Scripture. Essays in Honour of Barnabas Lindars* (Cambridge: Cambridge Univ. Press, 1988) 99, cited by David Goldenberg in his comments on my presentation of this essay at the meeting of the Society of Biblical Literature on November 22, 1999, in Boston.

6 Pseudo-Philo (*Bib. Ant.* 18.10), like Josephus (*Ant.* 4.113), gives added importance to Balaam by having him offer the sacrifice before he prophesies. Again, regarding Pseudo-Philo's narrative of Samson we may note that the Bible first mentions how he tore a lion apart (Judg 14:5–6), later that he tore the doors of the city gate of Gaza (Judg 16:2–3), then that he fell in love with Delilah (Judg 16:4). Pseudo-Philo first mentions that he tore the doors of the city gate of Gaza (43.2–3), then that he killed the lion (43.4), then that he used the jawbone of an ass in attacking the Philistines (43.4), and then that he fell in love with Delilah (43.5). Josephus (*Ant.* 5.286) follows the biblical order in first mentioning the episode with the lion, then the episode with the jawbone (*Ant.* 5.297–300), then the episode at Gaza (*Ant.* 5.304–5), then his affair with Delilah (*Ant.* 5.306–13). It is not clear, however, what principle lies behind this rearrangement on the part of Pseudo-Philo.

7 To be sure, there is rearrangement in the Book of Chronicles. Thus 2 Sam 5:11 mentions that Hiram

So far as rearranging narrative material is concerned, I would suggest that Josephus was following, and perhaps in particular, the principle of what his predecessor[8] Dionysius of Halicarnassus calls οἰκονομικόν. The term was used initially in the sense of orderly household management, then in a literary sense, more generally, of a well-ordered manner. Indeed, Dionysius is different from these other possible sources in that he actually discusses the phenomenon of rearrangement. In fact, one of the five stylistic criteria by which Dionysius judges historians (*Epistula ad Pompeium* 773–74, 778, 780) is τάξις, i.e., organization of material.[9] In particular, Dionysius here and elsewhere (*De Thucydide* 9) criticizes Thucydides, whom he otherwise admires greatly, for arranging his narrative by summers and winters, breaking it up into small sections describing the many actions that took place in many different places during a given season and thus

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the king of Tyre sent a delegation to build a palace for David. Then (2 Sam 5:17–25) we are told how David defeated the Philistines in the Plain of Perazim. The book then narrates how David and his people began to retrieve the ark from the Philistines (2 Sam 6:1–7), and how he finally managed to bring the ark to Jerusalem, where Michal, David's wife, showed contempt for him as he was exuberantly dancing before the ark (2 Sam 6:12–16). When the account is again presented in 1 Chronicles, we find the order changed: first (1 Chr 13:1–14) we have the beginning of the retrieval of the ark from the Philistines; then (1 Chr 14:1) we are told that Hiram the king of Tyre sent a delegation to build a palace for David; then (1 Chr 14:8–16) we have the account of David's defeat of the Philistines in the Plain of Perazim. This is followed by the final removal of the ark to Jerusalem and the contempt that David's wife Michal had for him because of his exuberant dancing before the ark (1 Chr 15). It is not clear what principles lie behind the rearangement of these episodes, whereas Josephus' rearrangements are, at least in part, based on the principles mentioned by Dionysius of Halicarnassus in his rhetorical treatises.

8 On the likelihood of Josephus' indebtedness to Dionysius, as one suspects from the titles of their respective books, *Jewish Antiquities* and *Roman Antiquities*, each of which is in twenty books, see Gregory E. Sterling, *Historiography and Self-Definition: Josephus, Luke-Acts and Apologetic Historiography* (Leiden: Brill, 1992) 284–90.

9 See the discussion by Kenneth S. Sacks, "Historiography in the Rhetorical Works of Dionysius of Halicarnassus," *Athenaeum* 61 (1983) 65–87. Sacks (69) says that the term οἰκονομία "is not clear: it might simply be synonymous with τάξις (organization), or it might, as it does in *De Thucydide*, stand roughly for all three middle categories of termini, variety, and organization." Sacks (75–76) concludes that Dionysius' theory of organization is quite complicated and frequently contradictory: while generally, in the *Epistula ad Pompeium* 773–74, Dionysius favors Herodotus' topical approach and criticizes Thucydides for adopting the annalistic method of organizing his material by winter and spring, he nonetheless, in his *Antiquitates Romanae*, is closer to Thucydides in scope and organization in approaching the history of Rome annalistically down to the outbreak of the First Punic War. Sacks (81) notes that in Dionysius' essay *De Thucydide* (9, 10, 13) οἰκονομία subsumes three different considerations: division (διαίρεσις), effective beginning and end points (τάξις), and proper balance (ἐξεργεσία). In the *Epistula ad Pompeium* the terminology varies. Wilhelm Wuellner, "Arrangement," in Stanley E. Porter, ed., *Handbook of Classical Rhetoric in the Hellenistic Period 330 B.C.–A.D. 400* (Leiden: Brill, 1997) 51–87, presents a comprehensive historical survey of the topic but focuses primarily on arrangement and choice of words rather than of thoughts (and in the latter instance does not deal with rearrangement). He devotes only a single page (65) to Dionysius of Halicarnassus.

presenting a very choppy narrative with no continuity. "History," Dionysius concludes, "should be presented as an uninterrupted sequence of events, particularly when it is concerned with a large number of them that are difficult to comprehend." While Dionysius favors viewing contemporaneous events in immediate juxtaposition, he feels that Thucydides has gone too far in breaking up contemporary events into units that are so small that one has difficulty seeing their connection.

On the other hand, Dionysius praises Xenophon for his arrangement of material (*Epistula ad Pompeium* 4): "Everywhere he has begun at the most appropriate place, and he has concluded each episode at the most suitable point." He likewise praises Theopompus (*Epistula ad Pompeium* 6) for his arrangement, which is both lucid and easy to follow.

Another prominent historian, Diodorus Siculus, who lived in the century before Josephus and whose universal history, starting with mythical times, reminds one, in its scope, of Josephus' *Antiquities* (though Josephus does not mention him by name) likewise discusses the phenomenon of rearrangement. He writes in the opening of his Book 5 (5.1.1) about the importance for the historian of the arrangement of his material: "It should be the special care of historians, when they compose their works, to give attention to everything which may be of utility, and especially to the arrangement (οἰκονομίας) of the varied material they present." He notes, in particular, that some historians, although otherwise praiseworthy for their style, are, nevertheless, deficient in the way that they handle arrangement (οἰκονομίαν), so that they are justly censured. He then proceeds to praise Ephorus for the arrangement of his work of universal history, noting that each of the books of this work has unity, being restricted to a single topic.

Dionysius' word for "arrangement," οἰκονομία, significantly, is also the word employed by the extremely influential literary critic Pseudo-Longinus (*On the Sublime* 1.4), who also uses Josephus' word τάξις in referring to the military-like marshalling of facts, which, he says, shows itself not in one or two touches but emerges gradually from the whole tissue of a composition. Even Quintilian (3.3.9) avails himself of this term in discussing the phenomenon of rearrangement, remarking that the Latin language lacks an equivalent word. He cites the view of the rhetorician Hermagoras, who places judgment, division, order, and everything related to expression under the heading of economy (*oeconomiae*), a Greek word which, Quintilian says, refers literally to the management of domestic affairs but which is applied metaphorically to oratory.

Book One

Josephus has clearly learned this lesson of the importance of rearrangement, as we see even at the very beginning of the *Antiquities*. The Biblical account of

creation, after relating God's fashioning of the first human being (Gen 1:27 and 2:7) interrupts the narrative by introducing the Garden of Eden and the four rivers that flow out of it (Gen 2:8–14). Then the text returns to the account of the first man: God's instructions to him not to eat of the tree of knowledge of good and evil, God's bringing of every living creature to him so that he might name them, and the creation of the first woman from his rib (Gen 2:15–22). Josephus reaizes that the account of the Garden of Eden and the rivers interrupts the narrative about the first man; hence, immediately after mentioning the creation of Adam, he continues the narrative about him, noting that God brought to him the living creatures (*Ant.* 1.35). Whereas the Bible (Gen 2:20–21) cites no explicit connection between that act and the creation of Eve, Josephus supplies this connection.[10] Indeed, Josephus remarks that after God had named all the living creatures, Adam noted with astonishment that they all had mates, while he was without one, whereupon God proceeded to create a mate for him (*Ant.* 1.35). Again, where the Bible mentions God's creation of the first man (Gen 1:26) and then the creation of the Garden of Eden (Gen 2:8) and the four rivers (Gen 2:10–14) before the creation of the first woman (Gen 2:21–23), Josephus (*Ant.* 1.35) mentions the creation of the first woman immediately after the discussion of the creation of the first man (*Ant.* 1.32–34). Then, more logically, God creates a home for them in the Garden of Eden, which he proceeds to describe as watered by the four rivers. Moreover, whereas the Bible (Gen 2:21–23) describes the creation of the first woman and only a chapter later, after the punishment inflicted upon Adam and his wife for eating the forbidden fruit, mentions that Adam called his wife Eve (Gen 3:20), Josephus (*Ant.* 1.36) more logically gives the name of the woman immediately after she is created.[11] Moreover, it is only after completing this account of the creation of Adam and Eve that he proceeds to mention the Garden of Eden and the four rivers that flowed out of it (Gen 2:8–14; *Ant.* 1.37–39).[12] Whereas the Bible jumps around from the creation of Eden to the creation of Eve, Josephus, by his rearrangement, is able to have the expulsion from Eden follow more logically after the account of the creation of Eden (*Ant.* 1.40–51).

According to the biblical order, God first punished the serpent (Gen 3:14–15), then Eve (Gen 3:16), and then Adam (Gen 3:17–19). In Josephus (*Ant.* 1.49–50) the order is reversed: first Adam, for yielding to a woman's counsel, then Eve, for deluding Adam, and finally the serpent, for beguiling Eve. Josephus thus seeks to establish that the chief responsibility is that of Adam, since he has less regard

10 In this Josephus is paralleled, to be sure, by *Midrash Genesis Rabbah* 17.4 and *'Abot de-Rabbi Natan* B 8 (ed. Schechter, p. 23).

11 Jubilees 3:33 likewise displaces the naming of Eve, but less logically, has Adam give a name to his wife only after they have been expelled from the Garden of Eden.

12 Jubilees 2.7 also changes the order of the creation of the Garden of Eden, but places it on the third day of creation.

for women's sense of responsibility[13] and still less for that of animals.

The Bible (Gen 5:28) mentions Noah as the son of Lamech and the father of Shem, Ham, and Japheth, then describes the wickedness of that generation (Gen 6:1–6), continues with God's decision to eradicate the human race (Gen 6:7), then notes that Noah found favor in the eyes of God, enumerates Noah's sons again (Gen 6:10), describes again the wickedness of mankind (Gen 6:11–13), and then gives God's instructions to Noah to build an ark (Gen 6:14–22). The Noah narrative in Josephus is much less focussed than it is in the Bible. The centrality of Noah is thus very much diminished, inasmuch as after he is first mentioned and we are told of the wickedness of mankind (*Ant.* 1.75) and of God's instructions to Noah to build an ark (*Ant.* 1.76–78), there is a long digression concerning the date of the Flood (*Ant.* 1.80–88), followed by an account of the Flood itself and of the abating of the waters (*Ant.* 1.89–92). This, in turn, is followed by another digression, noting non-Jewish witnesses to the authenticity of the Flood (*Ant.* 1.93–95), after which comes an account of Noah's sacrifice to God and of God's covenant (*Ant.* 1.96–103), followed by still another digression, explaining the longevity of the patriarchs (*Ant.* 1.104–108), followed by the account of the refusal of Noah's grandsons and later descendants to colonize the plains (*Ant.* 1.109–12). Moreover, Josephus (*Ant.* 1.109) saw no point in mentioning the names of Noah's sons until after the Flood had subsided, since he realized that the problem before the survivors became the repopulation of the human race. Then we hear of the building of the Tower of Babel (*Ant.* 1.113–21), the table of nations descended from Noah's sons Japheth and Ham (*Ant.* 1.122–39), and, finally, the story of Noah's drunkenness and nakedness (*Ant.* 1.140–42). Hence, whereas Noah's drunkenness is in the Bible mentioned only four chapters (and only 90 verses) after the first reference to Noah, in Josephus this incident is mentioned some 65 paragraphs later, even though the account of the Flood itself is considerably condensed. Each digression in Josephus, it will be noted, is apologetically motivated.[14]

Since the Bible proceeds, shortly after mentioning the building of Noah's ark (Gen 6:14–16) and the entry into it of the animals (Gen 7:2–3), to describe the Flood itself (7:17–24), one may wonder why Josephus, after mentioning Noah's

13 On Josephus' bias against women see Betsy H. Amaru, "Portraits of Biblical Women in Josephus' *Antiquities*," *JJS* 39 (1988) 143–70, and my *Josephus's Interpretation of the Bible* (Berkeley: Univ. of California Press, 1998) 188–92.

14 Pseudo-Philo's *Liber Antiquitatum Biblicarum* also, digresses here, thought not as much as in Josephus. From *LAB*'s first mention of Noah until the notice of his death there are three chapters (3.4–5.8, that is, 33 subsections), much of which is taken up with an extra-biblical list of the names of the descendants of Noah and an extra-biblical census of their numbers (4.2–5.8); his motive also, presumably, is apologetic, namely, to diminish, on the one hand, the relative importance of Noah himself, while, on the other hand, to show that the nations of the world are actually derived from Noah.

construction of the ark (*Ant.* 1.77), does not get to the description of the Flood until a number of paragraphs later (*Ant.* 1.89). This would seem to violate his general method of dealing with a given incident in all its details before proceeding to another topic. The explanation here, however, would seem to be that Josephus is first and foremost a historian — and a critical historian at that. Once he mentioned the Flood (*Ant.* 1.75) he realized that it was crucial for him to prove its historicity, especially since the Greeks knew of more than one flood. Hence, immediately after noting the construction of the ark (*Ant.* 1.77), he had to establish that Noah was the tenth generation after Adam (*Ant.* 1.80). He thus gives the precise date of the Flood (*Ant.* 1.82) as occurring 2262 years after the birth of Adam. He then proceeds (*Ant.* 1.83–88) to cite the genealogy of the patriarchs from Adam to Noah to confirm this chronology. Only then does Josephus return to the account of the Flood itself (*Ant.* 1.89).

The Bible mentions by name the sons of Noah in five different places: first and second, that Noah had begotten three sons, Shem, Ham, and Japheth (Gen 5:32 and 6:10); third, that the sons, Shem, Ham, and Japheth, entered the ark (Gen 7:13); fourth, that the sons, Shem, Ham, and Japheth, emerged from the ark (Gen 9:18); and fifth (Gen 10:1), that the descendants of Noah (Gen 10:1–31), began with his sons, Shem, Ham, and Japheth. Josephus does not mention them by name until after the Flood has subsided and they descend to the plains to make their abode there (*Ant.* 1.109), and thereafter does not mention them again until he proceeds to enumerate their descendants (*Ant.* 1.122–147). In *Ant.* 1.109 and 1.141 Ham is referred to as Noah's youngest son; in Gen 9:24 he is referred to as his young son, which the LXX renders as "younger."[15] There is an apparent contradiction in the Bible itself in that Japheth (Gen 10:21) is referred to as the oldest, whereas, as noted above, Shem is listed first in Gen 5:32, 6:10, 7:13, 9:18, and 10:1. In *Ant.* 1.109 Josephus lists the sons in the order of Shem, Japheth, and Ham. In enumerating the descendants of Noah's sons, Josephus (*Ant.* 1.122) begins with Japheth, continues with Ham (*Ant.* 1.130), and concludes with Shem (*Ant.* 1.143), whom he terms the third of Noah's sons. Guttmann[16] suggests that Josephus may have had an apologetic motive in advancing the importance of Japheth, who, according to the rabbinic interpretation of Gen 9:27 (see *b.Meg.* 9b), was the ancestor of the Greeks.

We may note a striking rearrangement regarding the account of Noah's drunkenness and of the cursing of Canaan. In the Bible (Gen 9:20–26) this account is seemingly more logically placed directly after the emergence of Noah and his

15 So also rabbinic tradition (*Midrash Hagadol* to Genesis [ed. Margulies, p. 153]). He is also referred to as the youngest son in *Jubilees* 7:10.

16 Heinrich Guttmann, *Die Darstellung der jüdischen Religion bei Flavius Josephus* (Breslau: Marcus, 1928) 8.

sons from the ark, but in Josephus (*Ant.* 1.140–42) it is delayed until after the account of the building of the tower of Babel and the subsequent dispersion of humanity. In fact, in Josephus we are informed of Noah's death some 36 sections before (*Ant.* 1.104)! The reason for this delay is that Josephus sought to mention the cursing of Canaan immediately after his extensive enumeration of the sons of Ham and of the countries founded by them. Since he ends this enumeration with the mention of Ham's son Canaan (*Ant.* 1.138), the narrative continues logically with the account of how he came to be cursed.

Logically, the fact that after the Flood all people spoke one language (Gen 11:1) and the account of how they came to be dispersed should have followed immediately after the subsiding of the Flood, and the list of all the descendants of Noah's sons should have followed this. Indeed, Josephus (*Ant.* 1.109–47) follows this order, whereas in the Bible the subsiding of the Flood (Gen 8:1–9:18) is followed by the list of the descendants of Japheth and Ham and of Shem through Peleg and Joktan (Gen 10:1–32), then by the statement that the whole earth spoke one language (Gen 11:1), the account of the dispersal of the human race (Gen 11:8), and the repetition of the descendants of Arpachshad, the son of Shem (Gen 11:10–16), and the continuation of the descendants of Peleg, ending with Terah and Abram (Gen 11:17–32). In line with his principle of maintaining continuity on a given subject once he has raised it, Josephus does not have the interruption of the building of the tower of Babel after the list of the descendants of Japheth and Ham and the partial list of Shem, but presents the account of the dispersion of the generation of Babel immediately after the subsiding of the Flood (*Ant.* 1.113–19), since those who were dispersed were the descendants of all the sons of Noah. Instead of giving the account of the descendants of Shem through Peleg and Joktan (Gen 10:21–29) and then starting all over again and presenting the descendants of Shem beyond Peleg to Abram (Gen 11:10–27), inserting the account of the Tower of Babel between the two accounts (Gen 11:1–9), Josephus first presents the complete account of the descendants of Shem (*Ant.* 1.143–51) through the family of Abram. He thereafter continues with the descendants of Heber, the great-grandson of Shem (*Ant.* 1.148–50), ending with the birth of Abram. Then, whereas the Bible mentions Nahor, the son of Terah (Gen 11:27), only to continue at length with the story of Abram (Gen 12:1–22:19) before mentioning the children of Nahor by his wife Milcah and by his concubine Reumah (Gen 22:20–24), Josephus mentions these children shortly after his listing of the sons of Terah (*Ant.* 1.153).

In the Bible (Gen 12:16) Pharaoh, in his desire for Sarai, showers Abram with great wealth before he is afflicted by God and comes to realize that she is Abram's wife. In Josephus (*Ant.* 1.165) Pharaoh is portrayed as generous toward Abram not, as in the Bible, before his discovery that Sarai is his wife, when he obviously would have ulterior motives, but, as a good Greek or Roman host who sends his guest away with abundant gifts, after he learns that he cannot keep Sarai.

The Bible (Gen 13:12) mentions that Lot pitched his tents as far as Sodom and then adds (Gen 13:13) that the people of Sodom were exceedingly wicked and sinful. We would expect that thereafter would follow an episode wherein the Sodomites would be punished. Instead we have the episode in which the Sodomites, together with their four allies, are defeated, Lot is captured, and Abram comes to the rescue of the Sodomites (Gen 14:1–24). It is only much later (Gen 18:20–19:29) that Sodom and Gomorrah are destroyed by God because of their wickedness. In Josephus' version there is no mention initially of Sodom's wickedness, only of its wealth and its large population (*Ant.* 1.171), presumably the reason why the four kings went to war with them. The impiety of the Sodomites is not mentioned until just before the decision of God to obliterate them (*Ant.* 1.194–95). However, as Niehoff has noted, Josephus, by stating already at an earlier point (*Ant.* 1.171) that Sodom, which was then prosperous, "has now by God's will been obliterated," and by adding proleptically that he will indicate "in its place" the cause of its fate, has enhanced the dramatic tension in a rhetorically sophisticated manner and has provided an interpretive framework in the light of which his later solutions will appear most natural.[17]

In the Bible, Abram's lament to God that he has no offspring (Gen 15:2–3) is followed by the Covenant between the Parts (Gen 15:9–21), in which God assures Abram that He has given to his descendants the land from the Nile to the Euphrates, including that of the Canaanites. This, in turn, is followed by the narrative (Gen 16:1–2) telling how Sarai gives her maidservant Hagar to Abram for childbearing purposes. The Covenant between the Parts seems to interrupt the connection between Abram's complaint and Sarai's action to assure him a descendant by giving him Hagar. Moreover, we may well ask what is the connection between God's assurance about the land that Abram's descendants will inherit, since those descendants are derived from Isaac, and the story of Hagar and Ishmael. Josephus (*Ant.* 1.186–87) has made the connection clearer. In the first place, instead of mentioning that Abram's descendants will acquire the land from the Nile to the Euphrates (Gen 15:18), which in fact they never did, and enumerating the ten tribes, ranging from the Kenites to the Jebusites, which they will conquer, thereby giving the Israelites a reputation for expansionism and imperialism, Josephus mentions not that the Israelites will obtain this land as a gift from God but that Abram's descendants will vanquish the Canaanites in battle (*Ant.* 1.185) and thus obtain it by right of conquest. Josephus (*Ant.* 1.186) then connects the mention of the Canaanites with the fact that Abram was at that time living in Canaan near the city of Hebron near the oak called Ogyges. Whereas Genesis 16 begins

17 Maren R. Niehoff, "Two Examples of Josephus' Narrative Technique in His 'Rewritten Bible,'" *JSJ* 27 (1996) 40–41. Niehoff, 41 n. 37, remarks that Dionysius of Halicarnassus (*Antiquitates Romanae* 2.11.3 and 2.26.6) uses a similar technique and similar language.

with the statement that Sarai bore no children and brought Hagar to Abram, Josephus (*Ant.* 1.186) first states specifically that Abram besought God to grant him the birth of a male child; and this, in turn, is followed by God's assurance that He had led Abram out of Mesopotamia for his welfare so that children would be born to him. Again, whereas the Bible (Gen 16:2) states that Sarai at her own initiative brought Hagar to Abram for childbearing purposes, Josephus connects this incident with the preceding incident of the Covenant between the Parts and God's assurance to Abram by stating (*Ant.* 1.187, under the influence of Gen 21:12), that it is at God's command that Sarai brought Hagar to Abram so that he might have children through her.

In the Bible (Gen 17:1–14) the birth of Ishmael is followed by a restatement of the convenant between God and Abram and only afterwards (Gen 17:16) by God's promise that Sarai will bear a son to Abram. Josephus (*Ant.* 1.191) has a smoother transition in that after the account of the birth of Ishmael we are told that God announced to Abraham that Sarai would bear him a son.

The reader of the Bible will note that whereas in Gen 18:1–16 we hear of the visit to Abraham of three angels and then of the wickedness of Sodom and Gomorrah and of God's intention to destroy them (Gen 18:16–33), Josephus has a more logical order: first the description of the Sodomites' overweening pride and insolence (*Ant.* 1.194–95) and God's decision to destroy them, and then God's sending the angels to carry out His decision (*Ant.* 1.196–204).

In the Bible (Gen 20:1–13) the incident of Abimelech and Sarah is followed by the account of the birth of Isaac (Gen 21:1–8) and that of the expulsion of Hagar and Ishmael (Gen 21:9–21), and then a return to the account of the alliance between Abraham and Abimelech (Gen 21:22–32). Josephus avoids the interruptions of the birth of Isaac and the expulsion of Hagar and Ishmael and mentions the alliance between Abraham and Abimelech in its more logical place, immediately after the account of the incident of Abimelech and Sarah (*Ant.* 1.212). Moreover, Josephus introduces a romantic aspect into the covenant between Abimelech and Abraham by having it entered into after the episode of Abimelech and Sarah rather than, as in the Bible, after a dispute concerning a well (Gen 21:22–34), which he omits altogether.

Moreover, the Bible (Gen 25:12–16) does not mention the names of Ishmael's descendants until after the enumeration of Abraham's descendants by Keturah (Gen 25:1–6). Josephus (*Ant.* 1.220), more logically, mentions Ishmael's descendants immediately after his account of the expulsion of Hagar and Ishmael and their rescue by an angel of God.

There is significance in the fact that whereas in the Bible (Gen 22:16–18) God's promises to Abraham are made after the sacrifice of the ram, in Josephus (*Ant.* 1.234–35) they are made before the ram is sacrificed (*Ant.* 1.236). Josephus thus emphasizes God's utter confidence in Abraham's faith and the fact that he does not have to be influenced by a sacrifice.

In the Bible the account of the binding of Isaac (Gen 22:1–19) is followed by the list of the children of Abraham's brother Nahor and by the mention of the birth of Rebecca to Nahor's son Bethuel (Gen 22:20–23). Only then do we hear of the death of Sarah (Gen 23:1–2). The connection is much smoother in Josephus, who tells us (*Ant.* 1.236–37) that after the *'Aqedah* Abraham and Isaac returned to Sarah, and that shortly thereafter Sarah died. In the Bible (Gen 24:22) Abraham's servant, who is on a mission to find a wife for Isaac, produces a precious ring and two heavy bracelets after an unnamed maiden has given drink to him and his camels, and only then (Gen 24:23) asks her identity, thus seemingly simply rewarding her for giving him drink. In Josephus' version it is only after Rebecca identifies herself that the servant produces a necklace and some other ornaments (*Ant.* 1.248–49), thus clearly indicating that he had reached the goal of his mission.

In the Bible (Gen 24:33) Abraham's servant declares that he will not eat until he has discharged his errand; but the good guest must eat first, as we see, for example, when Telemachus visits Nestor (Homer, *Odyssey* 3.67–68); and so Josephus (*Ant.* 1.252) reverses the biblical order. Furthermore, whereas in the Bible the servant begins his narrative to Laban and to Rebekah's mother by stating that he is Abraham's servant (Gen 24:34) and then mentions Abraham's tremendous wealth, Josephus, for whom genealogy clearly is more important than wealth, has the servant begin (*Ant.* 1.252) by giving Abraham's genealogy and by pointing out his master's kinship to his hosts.

Then, in the Bible (Gen 24:62–67) we read of the marriage of Isaac and Rebecca, followed by the account of Abraham's second marriage, to Keturah, and his children by her (Gen 25:1–4), and the statement that Abraham gave everything to Isaac, merely bestowing gifts upon the children whom he had from Keturah (Gen 25:5–6). In Josephus' version the account of Abraham's marriage to Keturah (*Ant.* 1.238) naturally follows the account of the death of his first wife, Sarah (*Ant.* 1.237), and precedes the account of the marriage of Isaac and Rebecca (*Ant.* 1.242–55). This is followed by the statement that Abraham gave Isaac his entire estate; and immediately after this comes the remark that his sons by Keturah departed to found their colonies (*Ant.* 1.255), thus omitting the embarrassing biblical remark that Abraham did not treat all his childen equally in the matter of the inheritance.

After the account of Abraham's death and burial (Gen 25:7–10) the Bible lists the descendants of Ishmael and notes Ishmael's death (Gen 25:12–18), after which we read of Rebecca's barrenness and pregnancy (Gen 25:19–21). In Josephus' version, inasmuch as the key figure after Abraham is Isaac rather than Ishmael, the mention of Abraham's death is followed immediately by the narrative of the birth of the twins Esau and Jacob to Isaac's wife Rebecca (*Ant.* 1.257).

In the biblical narrative the birth of the twins is followed by two simple statements, describing their growth and the favoritism that Rebecca showed for Jacob (Gen 25:27–28), followed by the story of Esau's sale of the birthright

to Jacob (Gen 25:29–34). Josephus, however, omits the account of the sale of the birthright until the very beginning of Book 2:1–3. Since the birthright is concerned with inheritance and Book 1 ends with the mention of the death of Isaac (*Ant.* 1.345– 46), the sale of the birthright follows this quite naturally.

In the Bible Rebecca, hearing that Esau intended to kill Jacob, tells him to flee to her brother Laban (Gen 27:41–45). Josephus (*Ant.* 1.278) says nothing at this point about Esau's intention to kill Jacob, perhaps because he knows the tradition identifying the Romans as descended from Esau.[18] Instead, we pass directly to Jacob's departure, upon the instructions of his mother and with the consent of his father, to Mesopotamia to seek a wife.

After the account of the death of Rachel in childbirth (Gen 35:16–20), the Bible (Gen 35:22) mentions that Reuben had relations with Bilhah, his father's concubine. Josephus omits this altogether, presumably because of the embarrassment, but also because it is an interruption in his narrative, which here, at the end of Book 1 of the *Antiquities*, deals with the death of Rachel, followed by the account of the death and burial of Rebecca and Isaac (*Ant.* 1.345–46).

Book Two

What is particularly interesting is that even though Book 2 begins with the division of their territories by Jacob and Esau following the death of their father Isaac (Gen 36:6–7), Josephus includes in Book 2 (*Ant.* 2.2–3) the incident of Esau's sale of his birthright, which in the Bible occurs much earlier (Gen 25:29–34). Ostensibly the reason for this shift is that the Bible, in describing at this point the descendants of Esau (Gen 36:9), states that Esau is the ancestor of Edom on Mount Seir. Josephus (*Ant.* 2.1), in his paraphrase, says that Esau took up his abode in Seir; and then, connecting Edom with Idumaea, he asserts that Esau ruled over Idumaea, calling the country after himself. The mention of Edom and Idumaea is then the occasion for the account of how Esau came to have the surname of Edom, the reason being, as Josephus says, following the biblical version (Gen 25:30), that the pottage which Esau bought in his exhausted state was red, the Hebrew word for which is אדם. In view of the apparent equation of Esau with Rome,[19] it is not surprising that Josephus here says nothing about Esau's despising his birthright (Gen 25:34).

The logical place for this story, one might assume, was, as in the Bible, before the narrative of Isaac's decision to bless his older son Esau (Gen 27:1), whereupon Jacob, with the aid of his mother Rebecca, managed to deceive his blind father into believing that he was Esau (Gen 27:19). Josephus was apparently troubled

18 See my *Josephus's Interpretation of the Bible*, 322–24.

19 See my *Josephus's Interpretation of the Bible*, 322–24.

by this apparent deceit on the part of Jacob, the ancestor of the Israelites; and in his account (*Ant.* 1.267) there is no indication that when Isaac decides to bless Esau he does so because Esau is his first-born. To be sure, Josephus does mention that Jacob was fearful lest his guile (κακουργῶν) be discovered (*Ant.* 1.270; so Gen 27:12). On the other hand, Josephus (*Ant.* 1.271) omits the embarrassing question "How is it that you have found it (i.e., venison) so quickly, my son?" (Gen 27:20). He likewise omits Isaac's embarrassing subsequent requests that Jacob come near so that he may feel him to see whether he really is Esau, as he claims, and kiss him (Gen 27:21). In particular, whereas in the Bible (Gen 27:18) Isaac asks, "Who are you, my son?" Josephus carefully omits Jacob's own incriminating answer (Gen 27:19), "I am Esau your first-born." In Josephus, God Himself justifies Jacob's theft of the blessing, saying that it was He who had given the princedom to him rather than to Esau (*Ant.* 2.173), although he postpones the statement to a later point, namely to the moment of Jacob's vision at Beersheba while he is on his way to Egypt, presumably because he felt self-conscious about having God justify the theft on the spot and preferred to defend it ex post facto.

Following the enumeration of Esau's descendants Josephus (*Ant.* 2.7) turns, as does the Bible (Gen 37:1), to resume the account of Jacob, and in particular the saga of Joseph. However, whereas the Bible begins with the neutral statement (Gen 37:1–2) that "Jacob dwelt in the land of his father's sojournings, in the land of Canaan. This is the history of the family of Jacob," Josephus (*Ant.* 2.7) begins with the statement that Jacob reached a degree of prosperity hardly attained by any man. The corresponding biblical statement is the account of Jacob's meeting with his brother Esau, where Jacob offers a gift to Esau, whereupon Esau says that he has enough and that Jacob should keep the gift for himself. Thereupon (Gen 33:11) Jacob refers to his prosperity thus: "Accept, I pray you, my gift that is brought to you, because God has dealt graciously with me, and because I have everything."[20] Josephus' account of that meeting (*Ant.* 1.336) says nothing about the offer of the gift, Esau's refusal to accept it, and Jacob's assertion of his prosperity. In the context of the meeting with Esau, who is apparently, as we have suggested, the progenitor of the Romans,[21] such an offer of a gift would appear to be degrading and, if the offer had been made, it would seem ungracious for Esau to reject it. Hence, the account of the meeting of Jacob and Esau is very much abbreviated, and this offer is totally omitted. Rather, Josephus has chosen to transfer the mention of Jacob's wealth to the introduction of the Joseph episode, where the statement is extremely effective dramatically, standing, as it does, in contrast to the pain and suffering that he is about to experience with the loss of Joseph, and

20 In his account of Amram's dream Josephus has God remind Amram of his glorious ancestors and, in particular, recall Jacob's prosperity (*Ant.* 2.214).

21 See my *Josephus's Interpretation of the Bible*, 322–24.

where God's providence is particularly striking in that what appeared at first sight to be the depths of despair turned out to be the source of utmost felicity (*Ant.* 2.8).

The Bible (Gen 37:3), at the very beginning of the Joseph narrative, mentions the long robe with sleeves which Jacob made for Joseph as a sign of his love for him. Josephus, apparently uneasy about Jacob's seemingly unjustified favoritism for Joseph, while recognizing this favoritism (*Ant.* 2.9–10), indicates a more credible ground for it, namely the beauty of person that Joseph owed to his birth from the beautiful Rachel and his virtuous qualities of soul and understanding. Moreover, Josephus omits mention of the fact that Joseph was wearing his beautiful coat of many colors at the time when the brothers were plotting against him (Gen 37:23), since, presumably, if Joseph were depicted as wearing that coat, he would appear to be taunting them. He first mentions the coat at a most effective point, namely, when the brothers consider what to do to elude their father's suspicion (*Ant.* 2.35) and decide to tear this coat to pieces and befoul it with goat's blood so that their father would think that Joseph had been devoured by wild beasts.

In the biblical version of the initial dramatic encounter between Joseph and his brothers in Egypt, Joseph, who recognizes them while they do not recognize him (Gen 42:8), accuses them of being spies (Gen 42:14) and then proceeds to test them by declaring that he will not permit them to leave unless they send one of their number to bring back their youngest brother, Benjamin, to Egypt. Thereupon he imprisons them for three days (Gen 42:17). It is then (Gen 42:22) that Reuben berates his brothers, convinced that all this has occurred to them because they had not listened to him when he urged them not to carry out their scheme of hate against Joseph. Josephus has changed the order of these events: first Joseph accuses his brothers of being spies (*Ant.* 2.98), then Reuben speaks, not to his brothers, but appeals directly to Joseph (*Ant.* 2.101–4), then Joseph imprisons his brothers for three days (*Ant.* 2.105). Perhaps Josephus changed the sequence of events because he considered it undeservedly cruel on the part of Joseph to imprison his brothers without first hearing their case presented. There is much greater drama, moreover, in having Reuben appeal directly to Joseph and having this followed by the imprisonment.

In the Bible (Gen 42:16), immediately after Joseph's brothers mention that they have a younger brother at home, Joseph demands that he be brought to him as a test of whether they have been telling him the truth. Josephus, apparently regarding this as impetuous, has Joseph (*Ant.* 2.106) make this demand only after Reuben's speech to him setting forth their family history at greater length and explaining their reason for coming.

In Gen 42:27 one of Joseph's brothers discovers the money in his sack, it would seem, shortly after they leave Joseph. In Gen 43:21 we read that this occurred when they arrived at the inn, again presumably shortly after they left Joseph. In Gen 42:35, however, they discover the money as they are emptying their sacks upon their arrival at the home of Jacob. In Josephus (*Ant.* 2.113) they

discover the money in all of their sacks only after they arrive at their home in Canaan. Again, we read (*Ant.* 2.120) that when they reach Egypt a second time they assure Joseph's steward that it was only on reaching their home that they had found the money in their sacks. Presumably, Josephus was troubled by the thought that if the brothers were as honest as they claimed in their statement to Joseph's steward, they should have brought back the money as soon as they discovered it. Josephus also apparently wishes to avoid the discrepancy between Gen 42:27 and 43:35 as to the place where they discovered the money, as well as the duplication of the two discoveries of the money, and so he mentions it in the most dramatic of contexts, namely when they arrive in Canaan and tell their father all that had befallen them in Egypt.

Josephus mentions the name of Amram at the very beginning of the Moses narrative (*Ant.* 2.210) in connection with God's prediction to him that the child whose birth has filled the Egyptians with such dread that they have condemned to destruction all the male babies of the Israelites is to be his, whereas in the Bible his name is not mentioned until much later (Exod 6:20), in the enumeration of the heads of all the families of the Israelites. Josephus thus makes Amram into a major figure, while his wife, Jochebed, become a marginal character.[22] On the other hand, Miriam's role is heightened, her name being mentioned by Josephus at the beginning of the Moses narrative (*Ant.* 2.221), whereas in the Bible her name is not mentioned until Exod 15:20, when she leads the singing following the successful crossing of the Sea of Reeds.

In the Bible it is near the very beginning of the dialogue between Moses and God at the burning bush that Moses asks Him what His name is (Exod 3:13–15). Since this would appear to show lack of faith, Josephus has Moses wait until the end of the conversation (*Ant.* 2.275) before asking this question; and there the reason for his asking is not to be able to answer the Israelites when they ask who had sent him (since this would, presumably, reflect lack of confidence on the part of both Moses and the Israelites), but rather to be able to address Him by name when offering a sacrifice.

God's instruction that the Israelite women should request gold and silver vessels (Exod 3:21–22; so also in Exod 11:2–3, 12:35–36) and garments from the Egyptians is embarrassing, since the Israelites obviously had no intention of returning these to the Egyptians; this also contradicts the Israelites' reputation for honesty and Moses' own reputation for integrity in directing the Israelites to "borrow" jewelry and clothing from the Egyptians.[23] Hence, Josephus omits this

22 So Jonathan Cohen, *The Origins and Evolution of the Moses Nativity Story* (Leiden: Brill, 1993) 49.

23 A pagan writer, Pompeius Trogus (*ap.* Justin, *Historiae Philippicae* 36, *Epitoma* 2.12–13), who is generally friendly to the Jews, states that the Jews carried off by stealth the sacred vessels of the Egyptians. One might well assume that the Israelites must have practiced deceit in order to obtain these objects, though such theft might perhaps be justified in view of the way in which the Israelites had been treated by the Egyptians for so long.

statement here; and when he does mention it much later (*Ant.* 2.314) it comes more fittingly at the moment when the Israelites actually depart from Egypt and when, according to the Bible (Exod 11:2–3), God instructs Moses to tell the Israelites to request gold and silver vessels from the Egyptians and when God "gave the people favor in the sight of the Egyptians." Furthermore, when Josephus does narrate this incident, he carefully notes that it was the Egyptians who, trooping to Pharaoh at the time of the plague of the first-born in order to urge him to let the Israelites leave, took the initiative in honoring the Israelites with gifts, "some in order that they might depart more swiftly, others from neighborly relations with them."

In the Bible, when Moses and Aaron first go to Pharaoh to ask him to allow the Israelites to leave (Exod 5:1), he orders his taskmasters to require that the Israelites gather straw for themselves (Exod 5:7); and it is only later, when they come a second time (Exod 7:9), that God tells Aaron to cast down his staff before Pharaoh that it will become a snake, whereupon Pharaoh summons his wise men who do likewise, after which the staff of Aaron swallows their staffs. In Josephus (*Ant.* 2.284) when Moses appears before Pharaoh for the first time, Pharaoh accuses him of trying to impose on him by magic. Thereupon he orders his priests to duplicate Moses' miracles. Then it is Moses, and not Aaron as in the Bible, who drops his staff, which turns into a snake and proceeds to swallow the staffs of the Egyptians. Presumably, Josephus felt that it made more sense for Moses to exhibit his magic when he first appeared before Pharaoh, since this would establish his credentials, so to speak. Again, it is after Moses' first meeting with him that Pharaoh in his anger orders his taskmasters to require that the Israelites provide their own straw (Exod 5:7–8), whereas Josephus, in his concern to emphasize the importance of obeying authority, tries to show that Pharaoh is not so impetuous;[24] and so it is only after the second meeting with Moses that he orders the Israelites to provide their own straw for making bricks.

In the Bible (Exod 7:6) when Moses and Aaron go to Pharaoh to ask him to allow the Israelites to leave, we are told that Moses was eighty years old and Aaron was eighty-three years old. Josephus (*Ant.* 2.319) waits until the moment of the Exodus itself before giving us this information. The pair's crucial achievement is not asking for permission but actually leading the Israelites out of Egypt; hence it is more appropriate to give us the information about the age of the leaders at that point.

According to Exod 13:18 the Israelites were armed (חמשים) when they left Egypt. This presents a problem, since it is hard to imagine whence they could have obtained weapons at this point. Josephus postpones the mention of these

24 On Josephus' attempt to present the pharaohs in a better light, see my "Josephus' Portraits of the Pharaohs," *Syllecta Classica* 4 (1993) 49–63.

weapons until the miracle of the crossing of the Sea of Reeds. The fact that the well-armed Egyptians were all drowned in the Sea makes it possible for him to state (*Ant.* 2.349) that the arms of the Egyptians were carried up to the Israelites' camp by the tide and by the force of the wind in that direction. The Israelites were thus easily able to collect the arms.

Book Three

In the Bible (Exod 15:24) the Israelites begin to complain against Moses when they come to Marah, but this complaint is not sustained and not particularly bitter. The complaint does become bitter after they have left Elim and arrive at the Wilderness of Sin. In Josephus (*Ant.* 3.6) they already begin to complain most vehemently almost at the very beginning of their journey, at Marah. This adds to the greatness of Moses as a leader, who must put up with the ungrateful, pestering rabble from the start and who is nonetheless able to alleviate their distress. When the Israelites leave Elim (Exod 16:2), they complain that they have no more food. According to Josephus (*Ant.* 3.12) they are eager to stone Moses, so bitter are they against him and so despondent, whereas in the Bible this extreme threat is not made until the Israelites have reached Rephidim (Exod 17:4).

When the Israelites in the Wilderness complain that they have no food (Exod 16:3), God promises Moses that he will send them manna. Then (Exod 16:13) in the evening quail cover the camp. In Josephus the quail are mentioned first (*Ant.* 3.25) and then the manna (*Ant.* 3.26). This may be because God first merely promises that He will send the manna and then says (Exod 16:12) that the Israelites will eat meat, presumably the quail, in the evening and bread, presumably the manna, in the morning. But since in the Bible God mentions the manna before He mentions the meat, whereas Josephus reverses them, we may suggest that Josephus prefers to mention first the quail, since this is less of a miracle, just as he prefers to rationalize wherever possible. In the Bible (Exod 16:20) those who sought to collect more of the manna than the prescribed measure miraculously find no more than the prescribed amount and anything beyond this turns out to be spoiled.

The order of the biblical narrative relates the encounter with Amalek (Exod 17:8–16), the meeting with Jethro (Exod 18:1–27), and the arrival at Sinai (Exod 19:1, although Exod 18:5 already indicates that Moses had encamped at "the mountain of God"), whereas in Josephus the order is the encounter with Amalek (*Ant.* 3.39–58), the arrival at Sinai (*Ant.* 3.59–62), and the meeting with Jethro (*Ant.* 3.63–74). The biblical order presents the problem that Jethro visits Moses at Sinai, to which the Israelites actually arrive only later. Significantly, Josephus, in his effort to build up the stature of Jethro and thus to emphasize that Jews show respect and admiration for non-Jews, goes out of his way and out of the

biblical order in prefacing the visit of Jethro with the remark that the Israelites had reached Mount Sinai. This gives a more important setting for the visit, since it puts Jethro in immediate juxtaposition with the central event in Israelite history and makes of his visit more than a mere occasion for congratulations for the Israelites' military victory over Amalek.

An example of a case where Josephus connects seemingly disparate events may be seen in his handling of the account of the death of Aaron's sons Nadab and Abihu (Lev 10:1). The Bible states that they had brought before God an alien fire that God had not commanded, and that a fire came forth from before God and consumed them. Josephus (*Ant.* 3.208) mentions this incident immediately after his account of the ceremonies that took place at the inauguration of the tabernacle. At those ceremonies, we read, a fire went forth from before God and consumed the burnt-offering (Lev 9:24); and Josephus, apparently noticing that the same language is used in connection with the death of Nadab and Abihu which follows, connects the two incidents with the remark that the same fire that consumed the burnt-offering also consumed the sons of Aaron.

Book Four

The Bible (Num 20:27–28) states that Aaron ascended Mount Hor, that Moses stripped his garments from him, that he dressed Aaron's son Eleazar in them, and that Aaron died there. It is only later, in the Bible's recapitulation of the journey of the Israelites, that we are told that he died on the first day of the fifth month (i.e., Ab) and that he was 123 years old. Josephus (*Ant.* 4.83–84) combines all this information.

The Bible (Num 25:1) does not itself explicitly link the apparent end of the Balaam episode (Num 24:25) with the incident involving the Israelite youths and the Midianite women (Num 25:1–5), and only at a later point (Num 31:16) associates Balaam with the incident. Josephus (*Ant.* 4.129) makes Balaam the originator of the Midianite scheme (*Ant.* 4.126–30).[25] The fact that Josephus (*Ant.* 4.157), after the conclusion of the episode with the Midianite women, says again that on these matters readers are free to think what they please shows that he regarded the whole complex of episodes as a single narrative.

The order of events in Num 25:1–8 is that first the Israelite men acted immorally with the Moabite women, then a plague afflicted the Israelites, then Phinehas killed the Israelite who openly had relations with the Midianite woman, then the plague was stayed. According to Num 25:5, Moses instructed the judges to put to death those who had apostasized. Yet, three verses later (Num 25:8) we

25 So also *b.Sanhedrin* 106a and parallels cited by Salomo Rappaport, *Agada und Exegese bei Flavius Josephus* (Wien: Alexander Kohut Memorial Foundation, 1930) 126, n.180.

learn that the plague (which had not previously been mentioned), presumably sent by God, was stayed from the people of Israel. In Josephus the plague (*Ant.* 4.155) takes place after Phinehas' deed (*Ant.* 4.152–53).[26] Apparently, Josephus felt that it was more likely that Phinehas' daring deed inspired God, so to speak, to initiate His own punishing of the Israelites.

Josephus (*Ant.* 4.165) has modified the biblical order in placing Moses' appointment of Joshua as his successor (Num 27:18–23) immediately before the former's apportionment of land to the Transjordanian tribes (Num 32:1–27). His apparent reason for this transposition is that he wishes to bring Moses' appointment of Joshua as his successor into immediate juxtaposition with the statement (Num 32:18) that Moses summoned Eleazar the high priest and Joshua to lead the Israelite army across the Jordan, at the same time making the proviso that the land of the Amorites should be given to these tribes on condition of their fighting along with their brethren (*Ant.* 4.171).

In the Bible (Num 27:1–4) the daughters of Zelophehad come to Moses noting that their father had died leaving no sons and complaining about the inheritance not being left to them. Moses is at a loss to answer them and brings the case to God, who judges that in such an instance the inheritance should be given to the daughters. This incident, as it appears in the Bible, presents five problems: in the first place, it is embarrassing that Moses, the greatest of Israelite prophets, should have been unable to answer the complaint of the daughters. In the second place, this incident appears suddenly with no connection to the preceeding passage (Num 26:1–65) that details the Israelite census. Nor does it have any connection with what follows (Num 27:12–14), where God tells Moses to climb the mountain of Abarim so that he may see the land that He has given to the Israelites. Thirdly, it is awkward that after God has decided that the daughters of Zelophehad are right and that they should not lose the inheritance of their father, the case should be raised once again (Num 36:1–9), several chapters later, as if God had given an incomplete decision, since the daughters now ask what will happen if they marry outside their tribe and the land will apparently be added to the tribe into which they marry. Fourthly, this second account has no apparent connection with what precedes, the case of an intentional murderer who flees to a city of refuge (Num 35:31–34). Fifthly, it is Moses now, rather than God, who gives the answer that the daughters are right, only to contradict himself apparently, since after saying, in the name of God, that they are free to marry whomever they wish, he asserts (Num 36:6) that they should marry only those who are members of their tribe. Josephus (*Ant.* 4.174–75) resolves all these problems. In the first place, Moses is not stymied by the question of Zelophehad's daughters and answers them directly without having to consult with God. Secondly,

26 So also in Pseudo-Philo 47.1.

there is a point of connection with what precedes, namely the distribution of the Amorite land (*Ant.* 4.166–71)[27] and the land (cities) given to the Levites (*Ant.* 4.172–73), since in the case of Zelophehad's daughters the question is also one concerning the inheritance of the land of their father. Thirdly, Josephus avoids the awkwardness of having Moses take up the issue of Zelophehad's daughters twice by having a single account. Fourthly, there is no problem of a point of connection with what follows in the second account, since there is no second account. Fifthly, there is no contradiction, since he omits Moses' statement (Num 36:6) that the daughters should marry within the tribe of their father. Josephus (*Ant.* 4.175) makes it clear that if they married into another tribe the inheritance would, nevertheless, remain within the tribe of their father.

Conclusion

Although Josephus insists that he has not added to or subtracted from the Scriptures in his alleged paraphrase, perhaps because he had a precedent in the Septuagint and in the Targumim,[28] he does admit that he has innovated in rearranging the order of topics, since, he claims, Moses left the Pentateuch in the disordered condition in which God gave it to him. If, then, we ask why Josephus felt a need to present his version of the rewritten Bible when the Septuagint itself actually does more than merely translate it, the answer would seem to be that, like his Greco-Roman predecessors Dionysius of Halicarnassus, Diodorus Siculus, Pseudo-Longinus, and Quintilian, he has attempted to fashion a more orderly narrative in conformity with contemporary sensibilities.

In rearranging material in the narrative portion of the Pentateuch Josephus' general principles are: to avoid non sequiturs and digressions within a given episode; to maintain a logical and temporal sequence and a causal relationship among the various episodes of his narrative (that is, preserving continuity on a given subject once it has been broached, e.g., connecting the Balaam episode with the incident involving the Israelite youths and the Midianite women); to provide a smoother transition between episodes; to interrupt, e.g., the narrative of the Flood in order to establish the historicity of the event; to enhance dramatic tension, as in the account of the destruction of Sodom, the intensified contrast between Jacob's wealth and his suffering, and the encounter between Joseph and his brothers in Egypt; to enhance the romantic, novelistic aspect of the scriptural narrative, as in placing the covenant between Abraham and Abimelech after the episode of Abimelech and Sarah; to follow the norms of good etiquette, such as by having the guest, Abraham's servant, eat before discharging

27 So Nodet, *Les antiquités juives*, 43, n. 4.

28 See the discussion in my *Josephus's Interpretation of the Bible*, 39–46.

his errand; to omit embarrassing details, as of Reuben's relations with Bilhah; to maintain the emphasis on key figures such as Abraham, Amram, and Moses; to add to the greatness of Moses, who, for example, had to put up with the ungrateful rabble from the start; to diminish the implication of cruelty, for example, on the part of Joseph in imprisoning his brothers; to reduce the element of the miraculous, such as by mentioning the quail before the manna, since this was a lesser miracle; to avoid discrepancies in the biblical text, such as regards the place where Joseph's brothers discovered the money in their sacks; to resolve perceived theological and moral difficulties in the biblical narrative, such as by having God justify Jacob's theft of his father's blessing only post facto, and postponing until their departure from Egypt the Israelites' borrowing of jewelry from the Egyptians; and to avoid narrative implausibilities, such as by asserting that the Israelites acquired arms from the drowned Egyptians rather than already being armed when they left Egypt.

Investing for Profit

A Study of *Iska* up to the Time of Rabbi Abraham ben David of Posquieres

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Although lending on interest was forbidden, the Mishnah allowed investments for profit in which investors and managers shared the profits (or losses) from their business enterprises. The Talmud called an investment of this nature an *iska* and placed restrictions on the *iska* so that it would not result in the law against usury being broken. The Geonim and the early Rishonim maintained these restrictions in full force, but, in the twelfth century, Rabbi Abraham ben David of Posquieres (Rabad) took a different approach than did his predecessors. He interpreted the law in such a way as to ease the restrictions and encourage investment for profit. Rabad's liberal rulings may be explained by the increased commercial activities of his time and by pressure brought by the Jewish business community on the rabbinic authorities to reduce the burden imposed by the usury ban. It may also be explained by the personality of Rabad, an independent thinker, who did not hesitate to strike new paths in the law.

The Talmud. The Talmud contains a formula which allowed investors to enter into profitable business partnerships without violating the prohibition against usury. For a thousand years the expounders of the law strictly adhered to this formula, but in the twelfth century, rabbinic authorities eased its restrictions in such a way as to increase the investor's profit and reduce his chances for loss. The purpose of this study is to examine the development of this formula over the centuries and to explain the radical change it underwent in the twelfth century.

Because the Bible and the Talmud forbade lending on interest, people who wanted to benefit from the use of their money sought means other than outright loans in order to reap profits. One way to achieve their goal without violating the usury ban was to invest in a business.

The Mishnah had ordained that one could set up a storekeeper or give money to a trader on a half profit basis. This meant that an investor could provide the funds for an enterprise and share the profits (or suffer the losses) equally with the working partner. In order to avoid the possibility that the active partner's labor would be a gift to the investor (and be construed as interest), the Mishnah stipulated that the investor had to pay the worker for his labor.[1]

The Tosefta outlined several alternatives to this payment. For example, the investor might share some of the labor with the working partner; he might

1 *M.B.Meṣi*ᶜ*a* 5:4.

provide a building for the enterprise, or he might give the active partner more than one-half of the profit. A formula suggested in the Tosefta was that instead of receiving a separate payment for wages, the working partner could get one-third of the investor's share of the profit.[2] In other words, if the business were to prosper, the investor would get one-third of the profit and the worker two-thirds, whereas, if the business were to fail, both would still share the losses equally.

By the time of the Talmud, the custom of giving the active partner a higher percentage of the profit or a lower share of any loss, instead of a separate payment for labor, was well established. This becomes clear from the following story.[3] A creditor made a claim upon the heirs of R. Ilish with a note indicating that R. Ilish had accepted an investment for half the profit or half the loss. Since the note made no reference to any payment for labor made to R. Ilish, it appeared to have been a usurious contract. When the case came before Rava, he declared that R. Ilish was a great man and would not have fed anyone forbidden food (i.e. interest). The note must have meant, said Rava, either that the investor would get half the profits but accept two-thirds of any loss, or that R. Ilish would accept half of any loss but would receive two-thirds of any profit. In either case, the active partner's advantage in the profit/loss proportions was a satisfactory substitute for making a separate payment to him for his labor.

The Gemara called the arrangement between an investor and a working partner an *iska*. It said that an *iska* could be understood as half a loan and half a deposit.[4] The Saboraim[5] explained the value of looking upon an *iska* in this way: From the investor's perspective, if the iska were all a loan, the investor would not be allowed to profit lest he violate the law against usury, and if it were all a deposit, then the investor would be totally liable in case of loss. From the working partner's viewpoint, if it were all a loan, he, the working partner, would be fully responsible for a loss, and if it were all a deposit, he would be entitled to none of the profit. This was why the rabbis called an *iska* half a loan and half a deposit, so that the investor and the worker could share the profits and share the liability.

The Geonim. There is evidence that the Babylonian Geonim exercised care to enforce the working partner's compensation. In the *Halakhot Pesukot*, the 8th century work of R. Yehudai Gaon[6] and in R. Simeon Kayyara's 9th century code, the

2 *T.B.Meṣi^{c}a* 4:11, 14.

3 *B.B.Meṣi^{c}a 68b.*

4 *B.B.Meṣi^{c}a 104b*; *b.B.Bat. 70b.*

5 R. Sherira Gaon credits the Saboraim with this explanation. He does not cite the *Halakhot Pesukot* or the *Halakhot Gedolot* where it also appears. *Sha'are Tsedek* (Jerusalem: Klal Ufrat, 1971) pt. 4, gate 8, #5; S. Sasoon, ed., *Sefer Halakhot Pesukot* (Jerusalem: Mekitse Nirdamim, 1950) 49; E. Hildesheimer, ed., *Sefer Halakhot Gedolot* (3 vols.; Jerusalem: Mekitse Nirdamim, 1980) 2:406. See Benjamin Lewin, *Rabbanan Savorai Vetalmudam* (Tel Aviv: Ahiever, 1937) 42–44.

6 Sasoon, *Sefer Halakhot Pesukot*, 49.

Halakhot Gedolot,[7] it was explained that the investor had to assume two-thirds of any loss while sharing the profits equally with the working partner, or, if the investor paid the worker separately for his labor, then the investor could share equally with his partner in profit or in loss. The wording in these codes faithfully followed the Talmudic law.

In a question dated 929, R. Saadya Gaon was asked regarding an *iska* contract that stipulated a 50/50 split of the profits, but, apparently, did not indicate how any losses would be shared.[8] The enterprise failed and R. Saadya was asked what to do. He replied, following the Talmudic teaching, that the investor would have to bear two-thirds of the loss. Only in this way could any hint of usury be avoided.

R. Sherira Gaon, during the second half of the tenth century, was asked whether an *iska* was allowed if the investor received two-thirds of the profit rather than the customary one-third.[9] R. Sherira responded that the investor was allowed to take two thirds of the profit only if he 1. accepted two thirds of the loss as well and 2. paid the active partner additionally for his labor and his expenses. In this case, the Gaon explained, the investment would be one-third a loan and two-thirds a deposit and would be legal.

R. Hai Gaon's (11th century) explanation of the iska was similar to that of his father, R. Sherira Gaon. In his *Sefer Hashtarot*[10] R. Hai drew a distinction between a *shtar shutafut*, a partnership contract, in which both parties invested in the enterprise, and a *shtar kis*, in which only one party invested. R. Hai made it clear that he strictly followed the ruling of the Talmud. In the case of the *shtar kis*, where one partner invested and the other worked, the worker had to be compensated for his labor, either by being granted a preferred proportion of the profit or the loss, or else by receiving an agreed upon salary.

In a question addressed to R. Hai Gaon,[11] it was stated that R. Jacob Gaon (early 10th century) had ruled that a 50/50 profit arrangement was permitted, whereas R. Sherira Gaon, R. Hai's father, required that the working partner receive two-thirds of the profit. R. Hai replied that he did not remember what his father had written, but he did know what the law was. If the working partner received no separate payment for his labor, then he had to receive two-thirds of the profit or suffer only one third of any losses. But if the investor gave the active partner a separate payment for his labor, then a half and half split was allowed.

7 Hildesheimer, *Sefer Halakhot Gedolot*, 406.

8 A. A. Harkavy, *Zikhron Larishonim Vegam La'Akharonim* (Berlin, 1887) pt. 1, #556.

9 *Sha'are Tsedek*, pt. 4, gate 8, #5.

10 Simha Assaf, *Sefer Hashtarot Lerav Hai bar Sherira Gaon*, Supplement to *Tarbiz* 1 (1930) 35.

11 *Sha'are Tsedek*, pt. 4, gate 8, #6. Several anonymous responsa also affirm the consistent Geonic position that the working partner had to be compensated for his labor either by an agreed upon wage or else by getting two-thirds of the profit or suffering only one-third of any losses. See Harkavy, *Zikhron*, #235 and #550, and Joel Muller, *Teshuvot Geonei Mizrah Uma'rav* (Berlin, 1885, reprinted Jerusalem, 1967) #225.

It is clear, then, that throughout the Geonic period, the authorities maintained that, to avoid the appearance of usury, the active partner had to be compensated for his labor, either through a separate payment, or by giving him a greater proportion of potential gain than of potential loss.

How much was the working partner to be paid for his labor? Although the Mishnah had ruled[12] that in order to avoid violating the usury ban, the working partner of an *iska* had to be paid for his labor, it was not clear how much the working partner had to be paid. Was a payment equal to the real value of the worker's labor required, or was it sufficient to give him a token payment and thereby fulfill the niceties of the law? A Baraita[13] reported a dispute among the Tannaim on this matter. How much was the working partner of an *iska* to be paid? Rabbi Simeon required that the worker be fully compensated for his labor. Rabbi Judah held that only a token payment was necessary, whereas Rabbi Meir taught that he should be paid "much or little." In another version of this Baraita, Rabbi Meir is reported to have said that he should be paid as a *po'el batel*, an idle worker.

The Mishnah also ruled that he should be paid as a *po'el batel*.[14] And the Gemara, citing Abaye, explained that the pay of a *po'el batel* depended on the particular job from which the worker was idle. In other words, if an agricultural laborer came to his job but found no work to perform (perhaps because the field was flooded), the employer was still required to pay him, but not at the normal wage that he would receive had he been actually working, but rather at a reduced rate, that is, as a *po'el batel*, an idle worker.[15] Abaye's statement, then, made clear Rabbi Meir's view in the Baraita, that the worker should be paid "much or little." As an idle worker, the managing partner was to be paid much or little, depending on his rate of pay when he was employed at his regular job.

12 *M.B.Meṣi^{c}a* 5:4.

13 *B.B.Meṣi^{c}a* 68b.

14 The Mishnah in the Bavli says that he should be paid as a "worker," whereas the version of the Mishnah that appears in the Yerushalmi says that he should be paid as an "idle worker." It appears that the editors of the Bavli had before them "idle worker," or at least understood "worker" to mean "idle worker" for the Gemara (*m.B.Meṣi^{c}a* 68a–b) which follows the Mishnah deals with the question of how much an idle worker should be paid.

15 This explanation of the meaning of a *po'el batel* is clear from a reading of *b.B.Meṣi^{c}a* 76b. Rashi's view (*b.B.Meṣi^{c}a* 68b), that a *po'el batel* is one who receives less than a full wage because he accepts an easier job than he had before, is certainly wrong, for who is to say that buying and selling will be easier work than before? Tosafot (*b.B.Meṣi^{c}a* 68a) explains a *po'el batel* to mean an unemployed worker who, since he badly needs a job, is willing to work for less. This suggestion is reasonable, but since the Gemara itself uses the term *po'el batel* to denote an employed individual who was forced into idleness, we prefer this definition. See Joseph Heinemann, "The Status of the Laborer in Jewish Law and Society in the Talmudic Period," *HUCA* 25(1954)278–83.

The Gemara upheld Rabbi Meir's viewpoint,[16] and this position was sustained in the Geonic period as well.[17]

In R. Hai's responsum cited above,[18] the Gaon pointed out that the Gemara had rejected Rabbi Judah's opinion that a token payment was adequate. "Whoever said that any amount of wages was acceptable, his words are null and void." According to R. Hai, the payment, as explained in the Talmud, had to be based on what a worker who was forced by circumstances into idleness would receive.

Rishonim. This view was also maintained in the 11th century by R. Isaac Alfasi (Rif) in his *Halakhot*.[19] He said that the law was in accordance with Rabbi Meir, that is, the wage rate should be that of an idle worker, "much or little, as they have contracted and agreed with each other, according to the job from which he was idle." The phrase of the Baraita, "whether much or little," was understood by the Rif to mean that the worker's wage depended on the job that the worker formerly held. If he was a highly skilled worker with a high salary, then his "idle wage" might still be fairly high, but if he was an unskilled laborer, then his "idle wage" could be rather small. This is what the Baraita meant when it said in Rabbi Meir's name, that he was to be paid much or little, and this is what Alfasi understood it to mean.

The first authority to relax the requirement for the working partner's pay was R. Judah of Barcelona (12th century). Although, in his *Sefer Hashtarot*,[20] he followed Alfasi in agreeing that the worker's payment was to be at the scale of an idle worker, he stressed Rabbi Meir's view that the worker could be paid much or little, and at one point stated that even a single *zuz* might be sufficient.

The 12th century scholar, Moses Maimonides (Rambam), in the *Mishneh Torah*,[21] followed the same Talmudic formula as did Alfasi, saying that to avoid violating the usury ban the active partner had to be paid as a *po'el batel*, the rate depending on the particular job from which the worker was idle.

Rabad advocates a change. In the 12th century, R. Abraham b. David of Posquieres (Rabad) issued a ruling which clearly diminished the requirement to pay the working partner for his labor.[22] He stated that if the investor wished, "to stipulate

16 This is evident by the arguments at the top of 68b and at the top of 69a.

17 See R. Hai Gaon in *Sha'are Tsedek*, pt. 4, gate 8, #6.

18 *Sha'are Tsedek*, pt. 4, gate 8, #6.

19 *B. Meṣi'a* 39b of the Rif pages.

20 R. Judah ben Barzilai of Barcelona, *Sefer Hashtarot* (Berlin, 1898, repr. Jerusalem, 1967) #64.

21 *Shilukhin Veshutafin* 6:2.

22 Rabenu Avraham ben David, *Teshuvot Ufesakim*, Joseph Kafah, ed. (Jerusalem: Mossad Harav Kook, 1964) #132. This responsum can be found in *Temim De'im* (Warsaw, 1897) #51 and in Betzalel Ashkenazi, *Shita Mekubetzet*, *B. Meṣi'a* 68b.

to pay him a dinar for his labor, he could do so, even though his labor was worth more than that." "Whatever he contracted with him, . . . whether much or little," was acceptable.

Rabad's view was that an investor might pay the working partner any amount at all for his labor as long as it was agreed upon by both partners. Even a token daily payment was allowed. This opinion contrasted sharply with the ruling of R. Hai Gaon who had stated unequivocally that the Tannaitic opinion allowing a token payment was rejected in the Gemara. Although it was similar to the ruling of R. Judah of Barcelona, it differed from the Rif and the Rambam, both of whom indicated that the active partner had to be paid like an idle worker.

When the details were unspecified. Rabad tilted the *iska* in favor of the investor in another way as well. This modification had to do with a situation where an *iska* was established without making provision for paying wages to the active partner and without stipulating how profits or losses were to be divided. An anonymous respondent (possibly R. Judah HaCohen, eleventh century) was asked about just such a case.[23] A certain investment had earned a profit of 100%. Since no provision for dividing the profits had been made, the working partner claimed two-thirds of the profits stating that if there had been a loss, he would have had to bear half the loss. But the anonymous authority ruled that in case of a loss the investor would have had to accept two-thirds of the loss, and he, therefore was entitled to half the profit.

However, Rashi (R. Shlomo ben Yitzhak), in a similar case, made just the opposite decision.[24] He said that in the case of an unspecified *iska*, the working partner should receive two-thirds of any profit, but should bear only one half of any loss.

Maimonides took still a different position. When he dealt with this issue in the *Mishneh Torah*,[25] he ruled that in order to avoid breaking the law against usury, if there were a profit, the managing partner was entitled to two-thirds of it and if there were a loss, the investor should assume two-thirds of the loss. This ruling of the Rambam was intended to discourage investors from entering into an iska without spelling out the conditions in advance.

But when Rabad took up the case of an *iska* where no arrangements had been made either for a separate payment for labor or for dividing the profits or the losses, he said that the investor had the advantage.[26] If there were a profit, the

23 *Sefer Hadinim*, recorded in *She'elot Uteshuvot Maharam b. R. Barukh*, Prague edition, #895. See translation and comments by Irving Agus in *Urban Civilization in Pre-Crusade Europe* (2 vols.; New York: Yeshiva Univ. Press, 1965) 2:284–86 and introduction to vol. 1, 43–45.

24 *B.B. Meṣi'a* 104b, *D"H Had Iska.*

25 *Shilukhin Veshutafin* 6:3.

26 Rabenu Avraham, *Teshuvot Ufesakim*, #132; *Temim De'im*, #51.

investor could say, "I don't have to pay you wages because if there had been a loss, I would have absorbed two-thirds of the loss." On the other hand, if the business lost money, the investor could pay the worker separate wages and accept just half the loss since he had not made a commitment at the outset to accept two-thirds of the loss. Rabad's ruling that "if he [the investor] did not stipulate at the beginning, he may stipulate at the end," provided an incentive to the investor not to spell out the *iska* arrangements in advance. If he did not, when the *iska* was first set up, indicate exactly what the worker's compensation would be, the investor was at a strong advantage. Thus, if an *iska* succeeded, the investor did not have to compensate the managing partner in any way for his labor.

Liability. Rabad provided one more important advantage to the investor. This advantage had to do with the question of liability in the case of loss. R. Mattityahu Gaon[27] (9th century) was reported to have ruled that if an unavoidable accident befell an investment, the working partner was exempt and did not have to pay for any portion of the loss. But R. Sherira Gaon responded that this was incorrect. In fact, he doubted that R. Mattityahu had made such a ruling. R. Sherira explained that the Talmud had defined an *iska* as half a loan and half a deposit and that although the working partner was exempt from liability regarding the deposit portion of the investment, he was fully liable for the loan portion.

In the Geonic period, the question came up as to whether there were circumstances under which the active partner could be held liable for the deposit portion of the investment. Rabbi Yehudai Gaon (8th century), in the *Halakhot Pesukot*[28] and R. Simeon Kayyara (9th century), in the *Halakhot Gedolot*[29] stated that if an accident befell the investment, or if it were stolen, then the investor would bear the loss for the deposit portion.

R. Sherira Gaon (10th century) stated his agreement with this position,[30] that the investor was responsible for the deposit portion of a loss due to an unavoidable accident. R. Sherira, in fact, was asked about a case where thieves broke into a store and stole an investment.[31] He ruled that as long as the active partner was not negligent, the investor was liable for the deposit portion of his investment.

27 Reported by R. Sherira Gaon in *Sha'are Tsedek*, pt. 4, gate 8, #5. R. Isaac b. Abba Mari also ascribes this viewpoint to R. Mattityahu Gaon in *Sefer Ha-itur* (Warsaw, 1883, repr. Jerusalem, 1987) pt. 1, Kis, 39a; R. Isaac incorrectly ascribes this position to R. Simeon Kayyara as well.

28 Sasoon, *Sefer Halakhot Pesukot*, 49.

29 Hildesheimer, *Sefer Halakhot Gedolot*, 406.

30 *Sha'are Tsedek*, pt. 4, gate 8, #5.

31 Simha Asaf, "T'shuvot Merav Sherira (V'rav Hai?) Livne Pas," *Ginze Kedem* 5 (1934) 115–17. Many thanks to Alex Jassen for his helpful translation of this responsum in his term paper, University of Washington, March, 1999.

R. Hai Gaon (11th century) said that, regarding the deposit portion of the investment, the working partner was considered a paid bailee.[32] R. Hai certainly understood that a paid bailee was, as a rule, responsible for loss or theft;[33] however, he made it clear that the working partner of an *iska* was not like an ordinary paid bailee. He was given money with which to do business, and if he cared for that money in the manner of normal business people, then he would not be liable for the deposit portion of the investment.

R. Hananel (11th century) took the same position as did R. Hai.[34] The working partner was a paid bailee; paid bailees were normally liable for theft; but in the case of a working partner of an *iska*, unless it could be shown that he was negligent, if the investment were stolen, he was not liable.

The most clear-cut enunciation of this viewpoint came from the pen of Alfasi. When asked about the deposit portion of an *iska*, He replied that the deposit held by the working partner of an *iska* was not like a normal deposit. It was called an *iska* because the investor can say to the active partner, "I didn't give it to you for excellent guarding, but rather, for conducting business, and you should work with it the way merchants do." Alfasi declared that the recipient of the investment should guard it carefully, but he pointed out that "one who receives an *iska* is not able, wherever he goes about, to guard it in the ground.[35] Therefore, if he acted in the way that merchants do, more or less, then he is not called to account and is not liable" for the deposit portion of an *iska*.[36]

Maimonides, in the *Mishneh Torah*,[37] ruled in the same way as did Alfasi. If partners were engaged in an *iska* and the investment was lost or stolen, it was the investor who suffered the loss for the deposit portion of the investment.

The earliest authority who ruled that, as a paid bailee, the recipient of an *iska* was liable for the theft or loss of the deposit portion, was R. David b. Saadia in the 11th century.[38] He wrote, "If a man received an *iska* from his fellow, and the money, while with him, suffered an accident, if the accident was a result of theft or loss, the recipient is liable to pay for the loan half . . . and he also must pay for the deposit half. Since he gave him wages to work with it, he is a paid bailee and is liable for theft and loss."

32 Simha Asaf, "Keta Mehiburo shel R. Yehudah Hanasi Albertziloni (?) L'bava Metzia," Ginze Kedem, 5 (1934) 101–2.

33 *M.B. Meṣi^{c}a* 7:8.

34 Hananel ben Hushiel, *Perush Harav Hananel, Tractate Bava Metzia*, Dov Dumov, ed. (Jerusalem: Mossad Harav Kook, 1988) 179.

35 The Talmud teaches that, under normal circumstances, the proper way to care for money is to bury it in the ground, *b.B. Meṣi^{c}a* 42a.

36 R. Isaac Alfasi, *She'elot Uteshuvot Harav Yitzhak Alfasi*, Dov Zvi Rothstein, ed. (New York: Makhon Zvi Lemoreshet Gedole Yisrael, 1975) #75.

37 *Shilukhin Veshutafin* 6:2.

38 *Shita Mekubetzet, B. Meṣi^{c}a* 104b.

In the 12th century, R. Moses HaCohen expressed his support for this view as well.[39] Speaking of the manager's responsibility for an *iska* investment, he said that, "if he was negligent, he pays for all of it. And likewise if it were stolen or lost, for he is liable as a paid bailee regarding the deposit half."

And this was also the opinion of Rabad. For even though Rabad had relaxed the requirement that the managing partner be paid as an idle worker (allowing the payment to be any amount to which the parties agreed),[40] he pointed to those wages as justifying the fact that the working partner should be counted as a paid bailee. This is clear from his criticism[41] of Rambam's statement that the working partner was not liable for loss or theft. In that criticism Rabad, stated, "Why shouldn't he be considered a paid bailee for the deposit, for he receives wages as an idle worker."[42]

While Rabad, in southern France, was writing his critical comments on the *Mishneh Torah*, R. Isaac of Danpierre,[43] in the North, made an observation in the Tosafot[44] which was to have far reaching effect in this matter. In discussing the case of an agent who buys the wrong grain for his employer, the Tosafot pointed out that, under certain circumstances, all of the liability for an *iska* could be placed on the working partner. This passage reads as follows: "If one gives money to his fellow on a half profit basis and says to him, 'This is on condition that you lend it only on pledges of silver and gold and that you guard it in the ground, and if you deviate, you will be liable for everything.' . . . this is not usury for if he hadn't changed his mind [i.e., changed the stipulated mode of caring for the funds], it would not be all his liability."

Rabad apparently used this passage[45] as a springboard to provide investors with a technique for avoiding all liability in an *iska*. Unlike the Rif who had said,

39 *Shita Mekubetzet, B. Meṣi'a* 104b.

40 Supra n. 22.

41 *Hasagot Harabad, Hilkhot Sh'lukhin V'shutafin* 6:2.

42 One 12th century rabbi made a different kind of ruling to reduce the investor's risk. R. Judah ben Nathan said that it was permissible to establish an *iska* in which the recipient would accept all of the liability for accidents, as long as the investor was liable for depreciation. This went even further than the decisions of R. David b. Saadia, R. Moses Hacohen and Rabad. The ruling was disputed by R. Isaac of Danpierre and was not repeated by later Rishonim. *Tosafot, b.B. Meṣi'a* 70a; *Tur, Hilkhot Ribit* #177. See R. Joseph Colon (*Sh'elot Ut'shuvot Maharik Hay'shanot Lerabbenu Rabbi Yoseph Colon* [Jerusalem: Oraysoh, 1988] Shoresh #119, 242–43), who interpreted Rivan's permission in a narrow and limited way.

43 It is credited to R. Isaac of Dampierre by R. Moses of Coucy in *Sefer Mitzvot Gadol, Mitzvot Asei, Hilkhot Shutafin* (Venice, 1547, repr. Jerusalem, 1961) 167, col. c and by R. Jacob Hazzan in *Etz Hayyim*, Israel Brody, ed. (3 vols.; Jerusalem: Mossad Harav Kook, 1967) 3:150.

44 *B. Qamma* 102a, *D"H Hanoten.*

45 There are many examples demonstrating Rabad's knowledge of the Tosafot. See Isadore Twersky, *Rabad of Posquieres* (Cambridge, Mass.: Harvard Univ. Press, 1962) 235–36 and E. E. Urbach, *Ba'ale Hatosefot* (Jerusalem: Mossad Bialik, 1980) 66–67 and 227 n.1.

that it was impractical for someone engaged in a business enterprise to bury the deposit portion of an *iska* in the ground, Rabad took advantage of the fact that there was small likelihood that the working partner of an *iska* would be able to hide the money under the earth. He wrote in a responsum,[46] "If someone wants to give his fellow an *iska*, in a legal manner, for a set amount of time, let him do it this way. The investor should say to the recipient, . . . 'Lend it only with good pledges of silver and gold and always put the money under the ground in order to guard it from fire and thieves . . . and guard the money and the pledges with exceptional guarding.'. . . And then the investor will be able to take his profit without transgressing the usury ban and without worry . . . And after the investor makes these stipulations with the recipient, then the recipient may lend in any way that he wishes, . . . for he knows that the investor stipulated with him in order to place all of the liability on him should he deviate [from the stipulations]."

What Rabad was suggesting, then, was a contract which both parties knew to be a fiction. The manager got the capital which enabled him to trade, and the investor had the opportunity to profit while being relieved of liability for his investment by setting conditions for care of the stake which all knew could not and would not be fulfilled.[47]

A major innovation. People who wanted to make money with money found two drawbacks in the *iska*. One was that they had to pay the working partner for his labor. The other was that the investor risked losing the deposit portion of his invest-

46 Rabenu Avraham, *Teshuvot Ufesakim*, #140; *Temim De'im*, #60.

47 By proposing a legal fiction Rabad employed a technique used time and again by the rabbis to accommodate the social and economic needs of the community. The *prosbul*, for example, was a legal formula which allowed creditors to collect their debts after the Sabbatical year even though, according to biblical law, debts were cancelled on the seventh year. The law regarding an *eruv* established the rules for constructing an enclosure formed with poles and wires which transformed a public area into a private domain. This allowed Jews to carry therein on the Sabbath. According to rabbinic understanding of biblical law, Jews were not allowed to keep *hametz*, leaven, in their homes (later they could keep it in their homes but not own it) during the festival of Passover. Therefore, with rabbinic approval, *hametz* was sold to non-Jews before the holiday. But the sales were not real, for they were made on the presumption that the *hametz* would be repurchased after the festival.

For further examples of legal fiction in Jewish law and to see how Jewish law was creatively adjusted to meet reality, see Samuel Atlas, "Legal Fictions in the Talmud," in *Louis Ginzberg Jubilee Volume* (New York: The American Academy for Jewish Research, 1946) Heb. section; Louis Jacobs, *A Tree of Life, Diversity, Flexibility, and Creativity in Jewish Law* (Oxford: Oxford Univ. Press, 1984) 122–65; Jacob Katz, *The Shabbes Goy* (Philadelphia: The Jewish Publication Society, 1989); Haym Soloveitchik, *Halakha, Kalkala Vedimui Atzmi* (Jerusalem: The Magnes Press, The Hebrew Univ., 1985). For a discussion of the legal fiction which allowed Jews who did not own real estate to sell movable property in a distant place, see Hillel Gamoran, "Mortgages in Geonic Times in Light of the Law against Usury," *HUCA* 68 (1997) 106–7.

ment. Rabad provided the solution, an *iska* which reduced or negated the working partner's wages for labor *and* a suggestion which made the working partner liable for the deposit portion of the *iska* (as well as, of course, the loan portion).

How is it that after generations in which rabbinic authorities had crafted the *iska* in such a way as to prevent it from resulting in usury, in the 12th century, the restrictions were relaxed and the *iska* was allowed to become a profitable, risk free investment?

The answer, we believe, can be derived from two sources, from an understanding of the economic conditions of the time and from an acquaintance with the unique personality of Rabbi Abraham ben David of Posquieres.

Twelfth century provence. The 12th century was at the height of what has been called the "commercial revolution" of the Middle Ages.[48] Trade and commerce had increased dramatically. Merchants from Italy brought goods from Mediterranean lands and from the East to the North. From England and Flanders goods were transported to Italy and beyond. Much of the trade went through the towns and ports of Southern France. The merchants of Provence took an active role in the growing commercial life.[49]

Large numbers of towns were founded in this period and they grew in population and in stability.[50] When Benjamin of Tudela traveled to Provence about 1170, he visited the communities of Narbonne, Beziers, Montpellier, Lunel, Posquieres, Bourg de St. Gilles, Arles and Marseilles.[51] According to his description, they were established, prosperous communities with academies and scholars.[52]

The principal occupations of the Jews of Provence were commerce and moneylending. Jews were involved in local trade and in international commerce. They traveled by land and by sea. Many merchants were successful and some even

48 Robert S. Lopez, *The Commercial Revolution of the Middle Ages, 950–1350* (Englewood Cliffs, New Jersey: Prentice-Hall, 1971) 85–91.

49 Sidney Painter, *A History of the Middle Ages, 284–1500* (New York: Alfred A. Knopf, 1953) 220–25; N. J. G. Pounds, *An Economic History of Medieval Europe* (London, New York: Longman, 1994) 351–95; Edouard Baratier, *Histoire de la Provence* (Univers de la France et des pays francophones, 1969) 143–46.

50 Painter, *A History*, 226–28; Jacques Le Goff, "The Town as an Agent of Civilization," in Carlo M. Cipolla, ed., *The Fontana Economic History of Europe, The Middle Ages* (London: Collins/Fontana Books, 1972) 71–85; Carlo M. Cipolla, *Before the Industrial Revolution, European Society and Economy, 1000–1700* (New York, London: W. W. Norton, 1980) 143–49; S. Schwarzfuchs, "France Under the Early Capets," in Cecil Roth, ed., *The Dark Ages* (New Brunswick, N.J.: Rutgers Univ. Press, 1966) 150–51; Francois-Xavier Emmanuelli, *Histoire de la Provence* (Paris: Hachette littérature, 1980) 71.

51 *Sefer Masa'ot shel R. Binyamin*, M. Adler, ed. (London: 1907; reprint, Jerusalem: Hebrew Univ., 1960) 3–5.

52 See Shalom Albeck, *Introduction to Sefer ha-Eshkol* (2 vols.; Jerusalem: Reuben Mas, 1935) 1:1–15 and I. A. Agus, "Rabbinic Scholarship in Northern Europe," in Cecil Roth, ed., *The Dark Ages* (New Brunswick, N.J.: Rutgers Univ. Press, 1966) 205–9.

acquired great wealth. But gradually, the activities of Christians pushed Jews away from many trading opportunities and Jews turned for their sustenance to lending to Christians. By the end of the 12th century, moneylending had become the major occupation of the Jews of France.[53]

Both Jewish merchants and Jewish moneylenders needed capital for their enterprises. It was a common practice for those with funds at their disposal to enter into contracts with those who would employ the money for buying and selling goods, or for lending to Christians. The recipients would then provide the investors with a share of the profits.[54]

We must understand that medieval trade was a high risk undertaking.[55] Sales were not consummated before shipment. Goods, as a rule, were taken from one locality to another with a hope and a prayer of finding buyers. Travel by sea was subject to the dangers of shipwreck and piracy, and with robbers stalking the roads, travel by land was also hazardous. And even if a merchant arrived safely at his destination with his wares, there was always the possibility that a shipment of competing merchandise might arrive simultaneously and cause the price of the merchant's goods to plummet.

The same can be said, perhaps more so, for the lending of money.[56] It was a risky business. Defaults were commonplace. Actions against Jewish lenders were often defended by nobles and kings who, perhaps themselves, were debtors to Jews. Rabad surely wrote with some knowledge of the times when he urged Jews not to take pledges from powerful persons who could forcibly take them back.[57]

The personality of Rabad. With all of the uncertainty that investments entailed, it is not surprising that the rabbinic authorities of the 12th century were asked to help find ways to reduce the investor's risk of loss without violating the prohibition against usury. And who was more likely to meet this challenge than Rabbi Abraham ben David of Posquieres?

Benjamin of Tudela's description of the Jewish communities of Provence informs us not only of their schools and sages, but also of their wealth and pros-

53 Schwarzfuchs, *France*, 159. See Lopez, *The Commercial Revolution*, 60–62. Also see Isadore Twersky, *Rabad of Posquieres* (Cambridge, Mass.: Harvard Univ. Press, 1962) 20–21. Kenneth Stow, *Alienated Minority* (Cambridge, Mass.: Harvard Univ. Press, 1994) 213–16; H. H. Ben-Sasson, *A History of the Jewish People* (Cambridge, Mass.: Harvard Univ. Press, 1976) 469–71; Salo Baron, "Medieval Christendom," in Nachum Gross, ed., *Economic History of the Jews* (New York: Schocken Books, 1975) 44–46.

54 Abraham L. Udovitch, "The Origins of the Western Commenda: Islam, Israel, Byzantium," *Speculum* 37 (1962) 198–207; John H. Pryor, "The Origins of the Commenda Contract," *Speculum* 52 (1977) 5–37; Lopez, *The Commercial Revolution*, 73–79; R. de Roover, "The Organization of Trade," in M. M. Postan, *The Cambridge Economic History of Europe*, E. E. Rich and Edward Miller, eds., (Cambridge, Eng.: Cambridge Univ. Press, 1965) 49–57.

55 de Roover, *The Organization of Trade*, 44–46.

56 Stow, *Alienated Minority*, 219–20; Ben-Sasson, *Jewish People*, 471–72.

57 Rabenu Avraham, *Teshuvot Ufesakim*, #140; *Temim De'im*, #60.

perity. He makes a special point of saying that Rabbi Abraham ben David was a very rich man.[58] We have no way of knowing the source of Rabad's wealth,[59] but it is clear from his writings that he was well acquainted with the commercial activities of his day and with the needs of merchants.[60]

And Rabad was an independent thinker. Though he respected his teachers and the authorities who came before him, he never hesitated to state views which departed from conventional wisdom. His "greatness may lie largely in the innovative nature of his work."[61] He is best known for his *hasagot*, his critical notes on the works of the Rif, Razah (R. Zerahya Halevi) and Rambam in which he often disputed sharply the views of these sages. The description of Rabad as "independent" and "outspoken," as "autonomous" in judgment, and as an "unflinching individualist"[62] describes someone who could make a major change in the interpretation of the law governing the *iska*.[63]

Another indication that Rabad was willing to allow economic necessity to govern can be seen in a responsum of his regarding mortgages.[64] Rabad was asked whether a borrower could be compelled to redeem his pledge after a certain period of time. He responded by describing the practices in Barcelona and in Narbonne and accepted the Gentile custom which did not require the redemption of the pledge. He concluded the responsum by saying that wherever an explicit Jewish law did not govern, the custom of the non-Jews should be followed. Rabad was willing "to transform local custom into legal precedent."[65]

And this is perhaps what he did regarding the *iska*. Investors were reluctant to assume the great risks of commercial lending. They wanted to reduce their liability and increase their profit. They found merchants who were willing to accept less favorable terms. All that they needed was rabbinic sanction. Rabad responded to the needs of the "commercial revolution."

58 Adler, *Sefer Masa'ot*, 4.

59 Twersky speculates that it was inherited, *Rabad of Posquieres*, 6. Twersky also notes that Rabad's wealth is corroborated by R. Mordecai b. Hillel's reference to Rabad as *ha-nagid* and by Rabad's son's use of the phrase "aristocrats of the land" to describe his ancestors.

60 See Rabenu Avraham, *Teshuvot Ufesakim*, 124–25, 127–28, 131–34, 140.

61 Haym Soloveitchik, "Rabad of Posquieres: A Programmatic Essay" in *Peraqim Betoldot Hahevrah Hayehudit* (Jerusalem: Magnes Press, Hebrew Univ., 1980) 14.

62 Twersky, *Rabad of Posquieres*, 40.

63 Throughout his essay Soloveitchik stresses Rabad's originality, his "almost unparalleled capacity to confront Talmudic texts unaided, to wrest their meaning single-handedly." "A Programmatic Essay," 13.

64 Rabenu Avraham, *Teshuvot Ufesakim*, #131; *Temim De'im*, #50.

65 Twersky, *Rabad of Posquieres*, 116. See also Soloveitchik, "A Programmatic Essay," 32–33.

An Updated Bibliography of Manuscripts and Editions of Palestinian Targum to the Pentateuch From the Cairo Genizah

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Since publication of *Genizah Manuscripts of Palestinian Targum to the Pentateuch* in 1986, over thirty new fragments have come to light, especially at the Cambridge University Library. Some of the newly discovered pieces have been published in journals and Festschriften, contributing significant insights to Targum studies. Other valuable items remain unpublished and generally unknown. The present updated lists bring the new bibliographical information to the attention of scholars and researchers of the targumim.

In the introduction to the *Genizah Manuscripts of Palestinian Targum to the Pentateuch*,[1] I stated that in spite of the many efforts exerted to make that collection as complete as possible, new manuscripts would inevitably be discovered, as the Genizah collections throughout the world continued to be sifted by scholars. That prediction was indeed fulfilled within three years, with the discovery and publication of eight new fragments in Cambridge, containing significant additions to MSS D, E and H.[2] Additional findings followed during the ensuing years, as indicated in the List of Editions and in the manuscript entries noted as 'unpublished' or 'no siglum,' below. To date over thirty new fragments have come to light – although some of those from the Taylor-Schechter Additional Series are small and in poor condition.

The significance of this growth lies not merely in the increase in size of the corpus, and the increment of literary and linguistic data that became available. The new material also shed important light on the nature of the previously known manuscripts. For example, the new fragments of MS E from the book of Exodus refuted the hypothesis that that manuscript might have originally been confined to the book of Genesis, as were all of the fragments previously published by Paul Kahle and Alejandro Díez Macho. This theory was bolstered by

1 Klein (6), vol.1, p.xx.
2 Klein (8).

the fact that these known fragments, though collected in Cairo at different times, and presently divided among the libraries of Oxford, Cambridge, St. Petersburg and New York, all belonged only to one book of the Pentateuch. Whereas the addition of some thirty verses to MS E was quantitatively insignificant, the fact that these were of Palestinian targum to the end of the book of Exodus, indicates that MS E may have originally encompassed the entire Pentateuch. Incidentally, the new fragments also confirmed a previously posited but unattested grammatical form for the determined feminine cardinal number *one*.

Another example is the discovery in Cambridge of a second immediately following page of MS H, previously known from Cincinnati. However, it was only through the new fragment that the manuscript could be identified as a fragment-targum rather than a full continuous targum. Moreover, there were only two or three previously known Palestinian fragment-targum manuscripts from the Cairo Genizah (Br, DD – and perhaps J), both of which, though textually unrelated, were from the book of Deuteronomy (and J, from Exodus). The Genizah had now produced a targum of the same genre for Genesis.

A unique manuscript that is presently under preparation for publication will serve as our last case in point. Bilingual targumic manuscripts of the Aramaic Onqelos intertwined with the Judeo-Arabic translation of Sa'adia Ga'on are very common. Most of these are of Yemenite origin, among whom both versions were read in the Sabbath synagogue, over many centuries. Now, for the first time, the combination of an expansive Palestinian Targum and a Judeo-Arabic version that is similar to, but not identical with, the known translation of Sa'adia has been identified. The passage covers Exodus 19–20, including most of the Ten Commandments. The Palestinian Targum is different in many of its renditions from the many well-known parallel texts, though with many affinities to one of the fragment-targums (P). The Judeo-Arabic, in addition to translating expansively, contains many interspersed poems – some of a liturgical nature. This newly discovered manuscript is mostly in New York (20 leaves), with one additional leaf in Cambridge.

Although only fifteen years have transpired since publication of the last lists of editions and manuscripts,[3] the mass of recent discoveries, many made during preparation of the catalogue, *Targumic Manuscripts in the Cambridge Genizah Collections*,[4] makes it timely to produce updated versions for researchers in targumic studies. I hope, in due time, to produce a new edition of the texts as well.[5]

Lastly, the following are the criteria for the inclusion of targumic poems from among the newly published collection by Sokoloff and Yahalom. From

3 The first version of these lists was published as "A Bibliography of Manuscripts and Editions of Palestinian Targum to the Pentateuch," in *Studies in Bibliography and Booklore* 13(1980)20–25.

4 Klein (9).

5 My thanks to Paul V. M. Flesher for initiating and encouraging this and other targumic projects.

among their four relevant categories, 'Passover,' '*Shavuot*,' 'The new moon of *Nisan*,' and 'Conclusions of the reading of biblical books,' only those that either are clearly related to the synagogal Torah reading, quote Pentaeuchal verses in Aramaic, or which seem to have been integrated into targumic texts or served as introductory passages leading into Pentateuchal passages, were included in the present lists.

List of Editions

Baars, W. "A Targum on Exod. XV 7–21 from the Cairo Geniza," *Vetus Testamentum* 11 (1961) 340–42.

Díez Macho, A. (1), "Nuevos fragmentos del Targum Palestinense," *Sefarad* 15 (1955) 31–39.

Idem (2), "Nuevos fragmentos de Tosefta Targumica," *Sefarad* 16 (1956) 313–24.

Idem (3), *Biblia Polyglotta Matritensia*. Series IV Targum palestinense in Pentateuchum. L. 5, Deuteronomium I (sample fascicle). Madrid: Consejo Superior de Investigaciones Cientificas, 1965.

Idem (4), "Deux nouveaux fragments du Targum palestinien à New York," in *Studi sull' Oriente e la Bibbia offerti a P. Giovanni Rinaldi*. Genova: Studio e Vita, 1967, pt. 2, 178–89.

Idem (5), "Un nuevo fragmento del Targum palestinense a Génesis," *Aug* 9 (1969) 120–23. (= Idem, *Manuscritos hebreos y arameos de la Biblia*. Rome: Augustinianum, 1971, 217–20.)

Idem (6), *Biblia Polyglotta Matritensia* [see Idem (3), above]. L. 1–5, Madrid, 1977–88.

Fleischer, E. "The Great New Moon," [ראש ראשי חדשים"] *Tarbiz* 37 (1967–68) 265–78.

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Kasher, R. "A New Targum to the Ten Commandments According to a Genizah Manuscript," [תרגום ארמי לעשרת הדברות על פי קטע גניזה חדש", ויחסו לספרות הפיוית ולמסורת יהודי כורדיסטאן"] *Hebrew Union College Annual* 60 (1989) יז – א [Hebrew].

Klein, M. L. (1), "A Genizah Fragment of Palestinian Targum to Genesis 15:1–4," *Hebrew Union College Annual* 49 (1978) 73–87.

Idem (2), *The Fragment-Targums of the Pentateuch*. 2 vols.; Analecta biblica 76, Rome: Biblical Institute Press, 1980, 1: 237–41.

Idem (3), "Nine Fragments of Palestinian Targum to the Pentateuch from the Cairo Genizah," *Hebrew Union College Annual* 50 (1979) 149–64.

Idem (4), "A Neglected Manuscript of a Palestinian Fragment-Targum from the Cairo Genizah," *Textus* 10 (1982) 26–36.

Idem (5), "Targumic Poems from the Cairo Genizah," *Hebrew Annual Review* 8, Biblical and Other Studies in Honor of Sheldon H. Blank (1984) 89–99.

Idem (6), *Genizah Manuscripts of Palestinian Targum to the Pentateuch*. 2 vols.; Cincinnati: Hebrew Union College Press, 1986.

Idem (7), "Targumic Toseftot from the Cairo Genizah," in *Salvacion en la Palabra: Targum * Derash * Berith*. En memoria Alejandro Diez Macho. Madrid: Ediciones Cristiandad, 1986, 409–18.

Idem (8), "New Fragments of Palestinian Targum from the Cairo Genizah," *Sefarad* 49 (1989) 123–33.

Idem (9) *Targumic Manuscripts in the Cambridge Genizah Collections*. Cambridge University Library Genizah Series 8, S. C. Reif, ed. Cambridge: Cambridge University Press, 1992, [passim].

Idem (10) "Complementary Fragments from the Cairo Genizah," [השלמות", לכתבי יד מגניזת קאהיר"] in *Texts, Temples and Traditions*. A Tribute to Menahem Haran. M. V. Fox, et al., eds. Winona Lake, IN: Eisenbrauns, 1996, 95*–117*.

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Abbreviations

AS	Additional Series
BNU	Bibliothèque Nationale et Universitaire, Strasbourg
CUL	Cambridge University Library
ENA	Elkan Nathan Adler Collection
frag.	fragment (opening line of poem missing)
Heb.	Hebrew
HUC	Hebrew Union College, Cincinnati
JNUL	Jewish National and University Library, Jerusalem
JTS	Jewish Theological Seminary of America, New York
NS	New Series
PT	Palestinian Targum
Onq	Onqelos
Or.	Oriental
tg	targum
T-S	Taylor-Schechter Genizah Research Unit, Cambridge

The Genizah Manuscripts (in Biblical Order)

Gen 2:17–3:6
JTS 501 (ENA 2107), fol. 1
Diez Macho (4), Klein (6); MS B

Gen 4:4–16
St. Petersburg Antonin 739
Kahle, Klein (6); MS B

Gen 4:7, 8, 23 (toseftot)
Oxford Bodleian Heb. c74
Ginsburger (1), Klein (6, 7); MS X

Gen 4:8 (tosefta)
JTS 605 (ENA 2587), fol. 26b
Klein (6); MS I

Gen 4:8 (tosefta)
CUL T-S NS 184.81r
Klein (6); MS FF

Gen 5:9–10, 24–25
CUL T-S AS 71.240
unpublished; MS B(?)

Gen 5:28 (?); 6:5 (lemma)
St. Petersburg Antonin 739
Klein (6); MS B

Gen 6:18–7:15
Oxford Bodleian Heb. d49, fol. 47
Kahle, Klein (6); MS E

Gen 7:17–8:9
CUL T-S B8.11
Kahle (D), Klein (6); MS B

Gen 9:5–23
Oxford Bodleian Heb. d49, fol. 48
Kahle, Klein (6); MS E

Gen 15:1–4 (frag-tg)
HUC Genizah 1134r
Klein (1, 6); MS H

Gen 15:11–14 (frag-tg)
CUL T-S B9.11
Klein (8); MS H

Gen 17:11 (?) (tosefta)
CUL T-S AS 69.11
Klein (6); MS EE

Gen 21:4–9
CUL T-S AS 70.206, fol. 2v
Klein (6); MS Y

Gen 21:6–16
CUL T-S NS 161.104
Klein (6); MS LL

Gen 21:10 (tosefta)
CUL T-S AS 69.11
Klein (6, 7); MS EE

Gen 22:2–5 (liturgical tosefta)
JTS NS ENA 42.27
Klein (10); MS K

Gen 22:5–9 (liturgical tosefta)
CUL T-S B8.9, fol. 1
Grelot, Klein (6, 7, 10); MS K

Gen 22:9–15 (liturgical tosefta)
CUL T-S NS 138.79
Klein (10); MS K

Gen 22:15–16 (liturgical tosefta)
CUL T-S NS 271.183
Klein (10); MS K

Gen 24:3–4
Oxford Bodleian Heb. e73, fol. 29r
Klein (6); MS KK

Gen 28:17–29:17
CUL T-S B8.4, fol. 1
Kahle, Klein (6); MS E

Gen 29:17–30:2
St. Petersburg Antonin 111, fol. 1
Kahle, Klein (6); MS E

Gen 30:2–40
St. Petersburg Antonin 120, ff. 1–2
Kahle, Klein (6); MS E

Gen 30:40–31:15
St. Petersburg Antonin 111, fol. 2
Kahle, Klein (6); MS E

Gen 31:15–34
CUL T-S B8.4, fol. 2
Kahle, Klein (6); MS E

Gen 31:38–54
St. Petersburg Antonin 542, fol. 1
Kahle, Klein (6); MS C

Gen 32:13–29; 34:9–25
Oxford Bodleian Heb. b4, fol. 18–19
Kahle, Klein (6); MS C

Gen 35:6–15
St. Petersburg Antonin 542, fol. 2
Kahle, Klein (6); MS C

Gen 36:8–9, 24
CUL T-S B8.3, fol. 1
Klein (6); MS D

Gen 37:6–7, 19–35
CUL T-S B8.10, fol. 1, 2
Kahle (fol. 2), Klein (6); MS D

Gen 37:8–11, 13–14, 16–17
CUL T-S AS 68.83
Klein (8); MS D

Gen 37:15–33
JTS ENA 2755, fol. 2
Díez Macho (1), Klein (6); MS E

Gen 38:16–26
CUL T-S B8.3, fol. 2
Kahle, Klein (6); MS D

Gen 38:25, 26 (tosefta)
Oxford Bodleian Heb. c75
Klein (6, 7); MS X

Gen 38:25, 26 (tosefta)
CUL T-S NS 184.81; 182.2, fol. 1
Klein (6, 7); MS FF

Gen 38:16–39:10
Oxford Bodleian Heb. e43, fol. 66–67
Kahle, Klein (6); MS E

Gen 40:5–18
JTS ENA 2755, fol. 1
Díez Macho (1), Klein (6); MS E

Gen 41:6–26
Oxford Bodleian Heb. d26, fol. 15
Kahle, Klein (6); MS E

Gen 41:32–41
CUL T-S NS 76.1
Díez Macho (5), Klein (6); MS C

Gen 41:43–57; 42:34–43:10
JTS ENA 2578, fol. 20–21
Díez Macho (1), Klein (6); MS E

Gen 42:36 (tosefta)
Oxford Bodleian Heb. c75r
Klein (6); MS X

Gen 43:7–44:23
CUL T-S Heb. B8.6, fol. 1–4
Kahle, Klein (6); MS D

Gen 43:23–44:4
Oxford Bodleian d26, fol. 16
Kahle, Klein (6); MS E

Gen 44:16–20, (+ 47:26, below)
CUL T-S AS 70.176, 209, 210
+ AS 71.1, 2
Klein (6); MS Z

Gen 44:18 (tosefta)
Oxford Bodleian Heb. c74v
Klein (6); MS X

Gen 44:18 (tosefta)
CUL T-S AS 70.229r
Klein (6); MS RR

Gen 44:18 (tosefta)
CUL T-S NS 182.2, fol. 1,
+ NS 182.69, fol. 2
Klein (6, 7); MS FF

Gen 44:18 (tosefta)
CUL T-S B12.2
Díez Macho (2), Klein (6); MS R

Gen 44:18 (tosefta)
CUL T-S AS 64.13v
Klein (6); MS M

Gen 44:18 (tosefta)
CUL T-S NS 157.83
unpublished

Gen 46:26–47:5; 47:29–48:10
CUL T-S Misc. 27.1.4, fol.1–2
Klein (6); MS D

Gen 47:26 (inserted after 44:17)
CUL T-S AS 71.1r
Klein (6); MS Z

Gen 47:28–49:18
CUL T-S AS 70.211–214
+ AS 71.3–5, 214–217, 281
Klein (6) [except 70.214]; MS Z

Gen 48:10–21
CUL T-S B8.7 + AS 64.27
Kahle, Klein (6) [except AS]; MS D

Gen 49:1 (tosefta)
CUL T-S NS 182.69 fol.2
Klein (6); MS FF

Gen 49:1 (tosefta)
CUL T-S AS 71.248
unpublished

Gen 49:18 (tosefta)
Oxford Bodleian c74
Klein (6); MS X

Gen 49:18; 50:1, 16 (toseftot)
CUL T-S NS 182.69 fol.2, 3
Klein (6); MS, FF

Exod 4:7–11
CUL T-S AS 63.72, 85, 95
Klein (3, 6); MS A

Exod 4:25, 26 (tosefta)
CUL T-S NS 182.69 fol.3v
Klein (6); MS FF

Exod 5:6–7, 18–19
CUL T-S AS 64.239
Klein (8); MS D

Exod 5:20–6:10
CUL T-S B8.12
Kahle, Klein (6); MS D

Exod 7:10–22; 9:21–33
CUL T-S B8.5, fol.1–2
+ AS 66.187
Kahle (B8.5), Klein (6, 8); MS D

2 Acrostic Poems to Exod 12:2
(אלהא דחיא and אתכנשו כל ירחיה)
CUL T-S NS 186.21
Klein (5, 6); MS GG

Acrostic Poem to Exod 12:2 (frag.)
CUL T-S H10.78, fol.1
Klein (6), S-Y; MS MM

Acrostic Poem to Exod 12:2
(אליסון מה משבח הדין ירחא)
CUL T-S H12.11, fol.6v
Fleischer, Heinemann,
Klein (5, 6, 10), S-Y; MS JJ

Acrostic Poem to Exod 12:2
(אליסון מה משבח הדין ירחא)
CUL T-S AS 116.453
Klein (10), S-Y; no siglum

4 Poems to Exod 12:2
(אתרמי פולומוס ביני ירחייא
+ אזל משה מן שמי
+ אזדעזע עלמא ורעש תהומא
+ והווה כד אתגלי קיריס)
Oxford Bodleian Heb.e73, fol.29
Marmorstein, Fleischer,
Klein (5, 6), S-Y; MS KK

Acrostic Poems to Exod 12:1–2
(frag. of אלהא דחיא וקיימא)
CUL T-S H10.78, fol.2v
unpublished

Omen Poems to Exod 12:2 (frag.+ אתכנשון כל ירחיא + אתבחר זהרה + בראשי ירחיי [ ]לפ(ארבי)
CUL T-S H11.51, fol.1–7r
Klein (5, 6), G-S, S-Y; MS HH

Exod 12:1–3
CUL T-S H11.51, fol.7v
Klein (6); MS HH

Exod 12:1–42
CUL Or.1080 B18.1, fol.4v-6
Klein (6); MS AA

Exod 12:42; 12:21–34
CUL T-S B13.4, fol.1; + NS 218.61
Klein (6); MS AA

Exod 12:42 (tosefta)
CUL T-S NS 182.69 fol.1, 3
Klein (6); MS FF

Exod 12:42 (inserted in Onq)
JTS ENA 658 fol.7–9
unpublished

Exod 13:17 (tosefta)
Oxford Bodleian Heb.c74v
Klein (6); MS X

Exod 14:1, 13–14, 29–31; 15:1 (frag-tg?)
JTS 605 (ENA 2587), fol.6
Díez Macho (4), Klein (2,6); MS J

Exod 14:13–14
CUL T-S NS 182.69, fol.1, 6
Klein (6); MS FF

Acrostic Poems to Exod 14:29–31 (אלהא רבא וגברא ברבותיה + כד אתי רעיא מהימנא)
Jerusalem JNUL 4° 577.4[9], fol.3 [2r]–7 [4r]
Komlosh, Klein (6); MS PP

Acrostic Poem to Exod 14:30 (אתגלי אלהא רמא)
CUL T-S B12.24
Klein (6); MS MM

Acrostic Poem to Exod 14:30 (א'זיל משה וקום על ימא)
Oxford Bodleian Heb.c74v, 75r
Klein (6), cf.S-Y; MS X

Acrostic Poem to Exod 14:30 (אזל[ך] משה וקום על ימא)
Oxford Bodleian Heb.e25, fol.63v, 64r
Klein (6), cf.S-Y; MS T

Acrostic Poem to Exod 14:30 (איזל משה וקום על ימא)
JTS ENA 2752, fol.18v–19
Klein (10), cf.S-Y; no siglum

Exod 15:1, see Exod 14:1 . . . ; MS J

Exod 15:1, 3, 12, 18 (toseftot)
CUL T-S NS 182.69, fol.6
Klein (6); MS FF

Exod 15 (PT + toseftot)
JTS ENA 3565 fol.12
unpublished

Exod 15:3–8
JTS 608 (ENA 656), fol.2
Klein (6); MS U

Exod 15:7–21
Oxford Bodleian Heb.f102, fol.5
Baars, Klein (6); MS W

Exod 15:10–18
CUL T-S NS 253.2
unpublished

Exod 15:18–19
CUL T-S NS 289.120, 178, 187
unpublished

Poem to Exod 15:11 (מן כותך)
+ Tosefta to 15:12 (ימא וארעא)
+ Exod 15:13–15 (PT)
JTS ENA 2752, fol.18r–19r
Klein (10); no siglum

Acrostic Poem to Exod 15:6–16 (frag.)
Oxford Bodleian Heb.f33, fol.25
+ St. Petersburg Antonin Ebr. III
B 67, fol.1
Kahle (Antonin), Klein (6); MS G

Acrostic Poem to Exod 15:9
(אמר אויב אסור מרכבה)
JTS ENA 2132, fol.1
S-Y, p.94; no siglum

Acrostic Poem to Exod 15:11
(מן כותך אריה נהמא אמר משה)
S-Y, p.96; no siglum

Exod 17:8–16
CUL Or.1080 B18.1, fol.3v–4
Klein (6); MS AA

Exod 17:12, 16 (tosefta)
CUL T-S NS 182.69, fol.6v, 4r
Klein (6); MS FF

Exod 17:15–16; 19:1–8
JTS 605 (ENA 2587), fol.7
Díez Macho (4), Klein (2, 6); MS J

Exod 19:1–7
CUL T-S AS 71.59r
Klein (6); MS NN

Exod 19:7–14
JTS 608 (ENA 656), fol.1
Klein (6); MS U

Exod 19:1–20:23/26
Oxford Bodleian Heb.e43, fol.61–64
Kahle, Klein (6); MS F

Exod 19:1–10
CUL T-S AS 70.206
Klein (6); MS Y

Exod 19:1–3, 8–12 (+ רשות)
CUL T-S H3.111
unpublished

Exod 19:2–20:12/13 (+ J. Arab)
JTS ENA 1886, fol.1–20
+ CUL T-S Ar.50.118
Klein (in preparation; no siglum)

Exod 19:25–20:15/18 (+ Onq)
CUL T-S NS 136.2
unpublished

Acrostic Poem to Exod 19
(ארכין יוי שמיא לסיני)
Oxford Bodleian 2501, fol.50 +
Oxford Bodleian 2895/4, fol.149–50
S-Y, pp.110–16 (no siglum)

Acrostic Poem to Exod 19:25
(אנגלי מרומא פתחון לי דניעול)
JTS ENA 2752, fol.19
+ Oxford Bodleian 2501, fol.50
+ JTS ENA 2132, fol.2
+ Oxford Bodleian 2895/4, fol.151–2
Klein (10), S-Y (no siglum)

Exod 19:25–20:13
BNU Strasbourg 4017, fol.1v–2v
Landauer, Klein (6); MS S

Exod 19:25–20:2
Paris, Mosseri VI, 59
Klein (6); MS BB

Exod 20:2–3, 7–8
JTS 605 (ENA 2587), fol.30
Díez Macho (2), Klein (6); MS Q

Exod 20:2–7
CUL T-S NS 206.19
unpublished

4 Acrostic Poems to Exod 20:2–3, 12/13–14
(איתו כריעו לצלמי
+ אמר יצחק לאברהם אבוהי
+ איתגבר בחייליה אדוניה בר חגית
+ frag. + אית לי חד טליא)
CUL T-S NS 116.90 + 117.21 + 118.51–52
+ T-S H10.223 (frag.)
+ T-S 8H22.4
S-Y, pp.120–41; no siglum

Exod 20:7–8
CUL T-S Misc. 9.44
unpublished

Exod 20:11–13/16 (Onq + PT infl.)
CUL T-S NS 276.190
Kasher; no siglum

Exod 20:13/16–14/17
Oxford Bodleian Heb. d73, fol. 12
Klein (6); MS CC

Exod 20:16/19–22/26
CUL T-S B11.102
unpublished

Exod 20:22/26
CUL T-S NS 182.69, fol. 5
Klein (6); MS FF

3 Acrostic Poems to Exod 20:1–3
(frag. + אנא הוא מלקדמין
+ ידי אתקינת שמיא וארעא)
St. Petersburg Antonin Ebr. B 67, fol. 2
+ Oxford Bodleian Heb. f33, fol. 26
Kahle (Antonin), Klein (6); MS G

Exod 20:14/17–16/19
CUL T-S AS 72.34
unpublished

Exod 20:24/25–23:14
CUL T-S 20.155 +
T-S AS 63.24, 51, 96, 117, 129, 153
+ AS 69.241 + NS 286.1
Kahle (20.155), Klein (3, 6); MS A

Exod 34:31, 34–35
CUL T-S AS 11.176
unpublished; MS D

Exod 36:8–13, 22–28
CUL T-S AS 68.224
Klein (8); MS E

Exod 39:23–37
CUL T-S B6.6
Klein (6); MS D

Exod 39:32–40; 40:2–12
CUL T-S AS 68.144
Klein (8); MS E

Lev 1:1 (tosefta)
CUL T-S NS 182.69, fol. 4v
Klein (6); MS FF

Lev 10:19–20 (tosefta)
CUL T-S NS 182.69, fol. 5r
Klein (6); MS FF

Lev 22:26–23:44 (+ colophon)
Oxford Bodleian Heb. e43,
fol. 57–60, 64–65
Kahle, Klein (6); MS F

Lev 22:27 (tosefta)
CUL T-S NS 182.69, fol. 5
Klein (6); MS FF

Num 19:1–20:13
CUL Or. 1080 B18.1, fol. 6v, 2, 3
Klein (6); MS AA

Num 28:16–31
Oxford Bodleian Heb. e43,
fol. 60v–61r; 64v–65r
Kahle, DíezMacho (6), Klein (6); MS F

Num 28:22–31
CUL T-S AS 70.206, fol.1r, 2
Klein (6); MS Y

Deut 1:1–5:9 (frag-tg)
British Library Or. 10794, fol. 8
Gaster, Ginsburger, Díez Macho (3, 6), Klein (2, 4, 6); MS Br

Deut 5:19/22–26/29
CUL T-S B8.1
Kahle, Klein (6); MS D

Deut 23:15–25:4; 26:14–28:7 (frag-tg)
CUL T-S AS 72.75, 76, 77, fol.1
Klein (6); MS DD

Deut 26:2–14
CUL T-S B13.4, fol.2
Klein (6); MS AA

Deut 26:15–27:8
CUL Or.1080 B18.1, fol.1
Klein (6); MS AA

Deut 26:18–27:11; 28:15–18, 26–29
CUL T-S B8.8 + T-S NS 161.262
Kahle (B8.8), Klein (6); MS D

Deut 29:2, 5, 6, 13, 15
CUL T-S AS 68.234
Klein (8); MS D

Deut 32:34–33:9 (frag-tg)
CUL T-S AS 72.75, 76, 77, fol.2
Klein (6); MS DD

Deut 34:5–12
Oxford Bodleian Heb. e43, fol. 65r
Kahle (MS F), Klein (6); MS F2

Acrostic Poem to Deut 34
(אמר קיריס למשח מן גו שכינתא)
Oxford Bodleian Heb. e25, fol. 64r
Klein (5, 6); MS T

Poem to Deut 34
(אזלת יוכבד מפייסא למצרים)
CUL T-S NS 209.6
S-Y, pp. 245–6; no siglum

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T-S 8H22.4; no siglum; Poem: Exod 20
T-S Ar.50.118; no siglum; Targum and Judeo-Arabic: Exod 20
T-S Misc.9.44; no siglum; Targum and poems: Exod 20
T-S Misc.27.1.4, fol.1, 2; MS D; Gen 46–48
T-S 20.155r; MS A; Exod 20–23
T-S NS 76.1; MS C; Gen 41
T-S NS 116.90; no siglum; Exod 20
T-S NS 117.21; no siglum; Poem: Exod 20
T-S NS 118.50–53, fol.1–6; no siglum; Exod 20
T-S NS 136.2, fol.2; no siglum; Exod 19–20
T-S NS 138.79; MS K; Liturgical tosefta: Gen 22
T-S NS 157.83; no siglum; Tosefta: Gen 44
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T-S NS 161.262; MS D; Deut 28
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T-S NS 182.2; MS FF; Toseftot: Gen 38, 44
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T-S AS 64.13; MS M; Tosefta: Gen 44
T-S AS 64.27; MS D; Gen 48

T-S AS 64.239; MS D; Exod 5
T-S AS 66.187; MS D; Exod 7
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T-S AS 69.241; MS A; Exod 22
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T-S AS 71.248; no siglum; Tosefta: Gen 49
T-S AS 72.34; no siglum; Exod 20
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Or.1080 B18.1, fol.1–6; MS AA; Festival collection: Exod 12, 17; Num 19–20; Deut 26–27

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608 (ENA 656), fol.1, 2; MS U; Exod 15, 19
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ENA 658, fol.7–9; no siglum; Tosefta: Exod 12:42

ENA 1886, fol.1–20; no siglum;
Targum and Judeo-Arabic: Exod 20
ENA 2132, fol.2; no siglum; Poem: Exod 19
ENA 2578, fol.20, 21; MS E; Gen 41–43
ENA 2752, fol.18, 19; no siglum; Targum and poems: Exod 15, 19
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Heb. d26, fol.15, 16; MS E; Gen 41, 43–44
Heb. d49, fol.47, 48; MS E; Gen 6–7, 9
Heb. d73, fol.12; MS CC; Exod 20
Heb. e25, fol.63–64; MS T; Poems: Exod 14; Deut 34
Heb. e43, fol.57–65; MSS F, F_2; Festival collection:
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Heb. e73, fol.29; MS KK; Gen 24 and Poems: Exod 12
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MS 2895/4, fol.151–2; no siglum; Poem: Exod 19

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MS 4017, fol.1, 2; MS S; Exod 19–20

Christian, Jews, and Pagans in Dialogue

Jerome on Ecclesiastes 12:1–7

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Jerome's explanation of Ecclesiastes 12:1–7 in his *Commentary on Ecclesiastes* relies on sources from the Jewish, Christian, and Classical worlds. The Jewish, Christian and Classical traditions utilized by Jerome interact with each other in Jerome's effort to interpret Eccl 12:1–7. This interaction explains why Jerome prefers two Jewish interpretations of the verses: an allegory of the destruction of the Temples (*Ecclesiastes Rabbah* and *Lamentations Rabbah*) and an allegory of old age (*b.Šabb.* 151a–153a). Following Gregory Thaumaturgus and Didymus, Jerome reads the text allegorically, but opts for the Jewish versions because of the influence of Classical tradition. This influence appears in three ways: 1. Jerome situates the Jewish allegory of old age within Classical traditions concerning old age; 2. the physical decline associated with old age in contrast to the eternality of the soul fits his reading of Ecclesiastes as a refutation of Epicureanism — Jerome's treatment of the old-age allegory essentially rejects the "aging of the soul" described in Lucretius' *On the Nature of Things* (Book III); 3. the allegory of the Temples' destructions combined with the old-age allegory correlates with Classical notions about the "biological" development of political regimes. Rather than simply juxtapose Jewish traditions with Christian ones, Jerome reads and reworks Jewish traditions through a Classical refractor. Thus, the *Commentary on Ecclesiastes* embodies the permeable cultural borders characteristic of Late Antiquity.

Although not the central thesis of the paper, the source-critical argument has significant implications for the study of aggadic traditions in the Babylonian Talmud. The old-age allegory appears in *Leviticus Rabbah* and *Ecclesiastes Rabbah*, but Jerome more closely follows the tradition preserved in the Bavli. Therefore, Jerome provides evidence that the Bavli used a fixed aggadic collection of Palestinian provenance.

Perhaps it is presumptuous to discuss the book of Ecclesiastes which claims that "there is nothing new under the sun." This never stopped Jerome, however, who has a typically biting comment on the famous verse in his *Commentary on Ecclesiastes.* Jerome quotes his learned teacher, Aelius Donatus, explaining a similar sentiment in Terence (*Eun.* prol. 41), "'Nothing has been said which has not been said before.' Thus, my teacher Donatus, when he would explain this verse, said, 'They can go to hell who have said my interpretations before me.'"[1] I do not

1 All translations of Jerome are my own unless otherwise noted. The Latin text is from *S. Hieronymi Presbyteri Commentarius in Ecclesiasten*, edited by Marc Adriaen, CCSL 72 (Turnholt: Brepols, 1969) 247–361. Translations of Hebrew Bible follow *Tanakh: The Holy Scriptures* (Philadelphia: Jewish Publication Society, 1985).

claim to solve the notorious crux of Eccl 12:1–7 with an original exegesis that has never been offered. Rather, I concentrate on how Jerome understood these verses, how his interpretation reflects the intellectual universe of the Roman Empire in Late Antiquity. In analyzing Jerome's interpretation of these particular verses, Eccl 12:1–7, we can shed new light on Jerome's relation to his Jewish and Classical sources and explicate the nature of his commentary. My argument is as follows:

1. In an article published in 1933, Louis Ginzberg correctly identified Jerome's dependence on a rabbinic paraphrase of the First Temple's destruction and the subsequent exile based on an exegesis of Eccl 12:1–7. As an improvement and corrective of Ginzberg's source-critical work on Jerome's *Commentary on Ecclesiastes*, I will identify a tradition neglected by Ginzberg, the old-age allegory, that Jerome received from his Jewish informant. The presence of this Jewish tradition has major implications.

2. Since the old-age allegory has been preserved in the Babylonian Talmud and not in the Palestinian midrashim, the Babylonian Talmud is thus proven to contain Palestinian aggadic materials with a late fourth-century provenance.

3. More significantly, by following the recent work of scholars such as Jay and Kamesar, my analysis extends the juxtaposition of parallel texts in the tradition of Ginzberg to an articulation of the critical principles governing the construction of Jerome's exegesis.

   Even though Jerome includes Christian explanations in his commentary on Eccl 12:1–7, it is clear that he prefers the two Jewish traditions. In examining the paraphrase of the First Temple's destruction out of context, Ginzberg avoids accounting for the additions to the paraphrase contributed by Jerome. These additions explain how and why Jerome exploits the Jewish tradition by highlighting his Christian theological agenda.

4. An examination of the old-age allegory in its talmudic context demonstrates that Jerome not only borrows the textual details, but also is influenced by the thematic underpinnings of the Palestinian aggadah in his preference for this Jewish interpretation.

5. Besides highlighting the individual merits of the two Jewish traditions in the eyes of Jerome, I also illustrate why Jerome applies these two traditions in combination. Here, the Classical tradition and the Christian condition are powerful factors in his critical reading of Jewish traditions.

6. Therefore, taking seriously the notion that Jerome's commentary as a whole presents unified arguments rather than eclectic collections of sources, we must

reconsider the nature of Jerome's use of Jewish traditions and his position in the Late Antique world. Contrary to a commonly held notion, Jewish traditions do not only appear in Jerome to provide historical exegesis, but also can provide allegorical exegesis. More importantly, Classical tradition mediates Jerome's utilization of Jewish sources to underscore a Christian theological claim. At least in Jerome, the Jewish and Classical worlds on occasion can harmoniously interact to construct a Christian theological discourse.

Symmachus and His Critic

Near the end of a multi-layered exegesis of Eccl 12:17, Jerome inserts a striking observation about Symmachus' translation of verse 5:

> Symmachus, understanding (*sentiens*) something in this verse, translates it much differently. For he says,"and furthermore they will see these things from on high and error will be in the way, and the watcher will fall asleep, and the firmness of spirit will be destroyed. For a person will enter his eternal home, and they will go around lamenting in the street" (*Et super haec etiam de excelso videbunt et error erit in via, et obdormiet vigilans, et dissolvetur spiritus fortitudo. Ibit enim homo in domum aeternitatis suae, et circumibunt in platea plangentes*). Since the Laodicean follows this translation, he can please neither the Jews nor Christians as long as he is both far from the Hebrew and scorns to follow the Septuagint (*Comm. Eccl.* 12:5).

Such an observation points to a wide array of issues surrounding Jerome's exegesis of the passage. To begin with,"*Symmachus . . . sentiens*" recalls Jerome's promise at the beginning of chapter 12 to cull the most sensible interpretations of 12:1–7 from the tremendous variety of explanations: "In this chapter, the interpretation of all is varied and the opinions (*sententiae*) so many (almost as many as there are people) . . . . Let it suffice for the prudent to indicate what they think (*senserint*) . . . as if in a kind of small tablet."[2] After promising an epitome of the vast number of interpretations, why then does Jerome single out Symmachus and Apollinaris for condemnation? Jerome's answer seems vague and incomplete. First, Jerome tells us that Symmachus translates"much differently," but while the version is clearly "different," he does not explain why it is "much

2 *Comm. Eccl.* 11:9–12:1. The situation remains unchanged among modern commentators. See C. L. Seow, *Ecclesiastes: A New Translation and Commentary*, AB (New York: Doubleday, 1997) 372 ff.; H.A.J. Kruger,"Old Age Frailty Versus Cosmic Deterioration? A Few Remarks on the Commentary of Qohelet, 11.7–12.8," and A.J.O. Van Der Wal,"Qohelet 12,1a: A Relatively Unique Statement in Israel's Wisdom Tradition," in A. Schoors, ed., *Qohelet in the Context of Wisdom* (Leuven: Univ. Press, 1998) 399–411, 413–18.

different."[3] Second, the rendition and its exegetical implications are not pleasing to Jews and Christians, which in turn begs the question — why would Jews and Christians particularly dislike this reading? Moreover, Jerome does not explain what constitutes a pleasing reading. Since Jerome asserts that Symmachus hardly agrees with the Hebrew or Septuagint, he apparently provides a cogent reason why Christians and Jews might dislike Symmachus, namely that Symmachus corresponds to neither the Jewish nor Christian version of Scriptures. However, Jerome's critique of Symmachus cannot be read in isolation, for Jerome fails to explain the problematic exegesis espoused by Apollinaris on the basis of Symmachus and why this problem merits explicit notice. Therefore, Symmachus' rendition is best understood in the context of the intricate exegesis of Eccl 12:1–7 which involves Christian and Jewish sources. That is, there must be elements in Symmachus' rendition that undercut the various interpretations brought by Jerome.

Thus, Jerome's brief notice on Symmachus points to questions concerning Jerome's work as a Christian commentator on Scripture. In order to understand the significance of these issues, it is necessary to situate the *Commentary on Ecclesiastes* in the general picture of Jerome's commentaries and explain how previous work on Jerome's reading of Eccl 12:1–7 relates to the current study. The following analysis of previous scholarlship will construct a framework for my own detailed reading of Jerome.

Jerome as a Commentator on Ecclesiastes

At stake here is more than the interpretation of a particular passage, but rather the nature and purpose of Jerome's commentaries. It will therefore be helpful to set forth what we can say with confidence about Jerome's biblical commentaries. The *loci classici* for analyzing the program of Jerome's commentaries appear in

3 Much of Symmachus' rendering can be defended from the Hebrew. For example, *videbunt* 'they will see' would be a correct reading of the unpunctuated Hebrew (יראו) which could also be correctly rendered *formidabunt* 'they will fear'; *error* is the more correct *terror* in some codices; and Jerome has just completed an involved discussion on the ambiguity of the words that Symmachus renders as *vigilans*, 'guarding,' and *spiritus fortitudo*, 'strength of spirit.' In the case of *vigilans*, Jerome acknowledges that the root שקד can mean *vigilans* and *nux*, 'nut,' as well as 'almond tree' depending on the accent. *Dissolvetur spiritus fortitudo*, 'the strength of spirit is dissipated,' could be problematic because Symmachus has one phrase for two phrases in the Hebrew ("the grasshopper may be burdened, and the caper bush may bud again"). However, if we follow Jerome's observation that חגב, 'locust,' can be rendered as *talus*, 'heel,' and אביונה as *libido*, 'lust,' then *spiritus fortitudo* could represent a legitimate periphrasis combining both terms. Symmachus only merits harsh criticism on the rendering *obdormiet*, 'fall asleep,' that cannot be explained from the Hebrew (וינאץ 'bud'). My point here is to problematize Jerome's critique on the grounds that Symmachus really is not that far from the Hebrew and that Jerome himself emphasizes the ambiguity of the verse. On Jerome and Symmachus, see Alison Salvesen, *Symmachus in the Pentateuch* (Manchester: Univ. of Manchester Press, 1991) 265–281. Since Salvesen demonstrates that Jerome tends to prefer Symmachus, Jerome's critique of Symmachus here becomes all the more surprising.

Adversus Rufinum 1.16 and *Commentarius in Zachariam* 2 (6:9–15).[4] The passage from *Adversus Rufinum* describes the general role of a commentary while the passage from *Commentarius in Zachariam* identifies the purpose of including Jewish traditions. As many scholars have pointed out, and as Jerome explicitly states in *Adversus Rufinum*, a commentary clarifies the text, takes note of various traditions of interpretation, presents both literal and tropological exegesis, and allows the reader to determine the true interpretation.[5] Moreover, the commentary must be written in a clear, non-rhetorical style (*plano sermone*).[6] However, scholars disagree over the reasons why Jerome includes these various traditions, especially the Jewish ones. The variety of interpretations juxtaposed by Jerome calls into question the unity of his commentaries: do these various exegeses present a unified vision of a particular pericope or of an entire book, and what is the relationship between the literal and allegorical interpretations? The traditional view, still prevalent today, asserts that Jerome essentially compiles traditions, inconsistently utilizes literal and allegorical exegesis, and primarily provides Jewish traditions out of an antiquarian interest in displaying his knowledge.[7] Recently, however, Pierre Jay and Adam Kamesar have greatly advanced our understanding of the nature of Jerome's commentary.[8] While recognizing the influence

4 "What function do commentaries have? They explain the various interpretations; they clarify obscurities in plain speech; they replicate the opinion of many and say: some explain this section thus, some translate it thus; they try to confirm their sense and understanding with these proofs and with this rationale so that the thoughtful reader, when s/he reads the various explanations and learns which of the many things should be accepted or rejected, will judge which is more true, and like a good money-changer, will reject the money of counterfeit stamp" (*Ruf.* 1.16).

"I have for the first time put forward the secrets of Hebrew knowledge, and the hidden learning of the synagogue's teachers to expose it to Latin ears provided that it fits the Holy Scriptures" (*Comm. Zach.* 2 [6:9–15]).

5 See Beryl Smalley, *The Study of the Bible in the Middle Ages* (Oxford: Clarendon Press) 1941, 21; E. F. Sutcliffe, "Jerome." *CHB* 2 (1969) 89, 94–95; H. F. D. Sparks, "Jerome, as a Biblical Scholar," *CHB* 1 (1970) 536; and Pierre Jay, *L'exégèse de saint Jerome d'après son 'Commentaire sur Isaie'* (Paris: Études Augustiniennes, 1985) 69–74 who also demonstrates the influence of the Classical grammatical tradition of collecting and presenting various sources.

6 See Sutcliffe, "Jerome," 94; Jay, *L'exégèse*, 70.

7 See, e.g., Dennis Brown, *Vir Trilinguis* (Kampen, The Netherlands: Kok Pharos, 1992) 199: "Jerome, was, then, essentially an eclectic scholar. He searched diligently in the works of previous authors and drew the best points from each, while avoiding the errors of each. This holds true also for the different 'schools' of interpretation accessible to Jerome — Antiochene, Alexandrian, and Jewish," and Sparks, "Jerome," 538: "Their outstanding characteristic is learning — sacred, secular, philological, textual, historical, exegetical, all mixed together." More recently, René Kieffer, "Jerome: His Exegesis and Hermeneutics," in Magne Sæbø, ed., *Hebrew Bible/Old Testament: The History of Its Interpretation. Vol. I From the Beginnings to the Middle Ages (Until 1300)* (Göttingen: Vandenhoeck & Ruprecht, 1996) 681, draws essentially the same conclusions. See also Smalley, "The Bible," 21–22, and Sutcliffe, "Jerome," 91, 94.

8 Jay, *L'exégèse*, and Adam Kamesar, *Jerome, Greek Scholarship, and the Hebrew Bible* (Oxford: Clarendon Press, 1993).

of a grammatical tradition behind Jerome's use of various sources and the influence of Origen behind his use of allegorical and textual exegesis, Jay and Kamesar underscore unifying elements in Jerome's exegetical works. Although Jerome does lay various opinions before the judicious reader, he also articulates a conceptual unity mediated through his own judgements.[9]

From this point, Jay and Kamesar move in different directions because of the nature and context of the particular works that they have studied. Kamesar contends that the *Hebrew Questions on Genesis* does not represent a "hybrid" work ornamenting a defense of the Hebrew text as a basis for the Latin Bible with erudite citations of rabbinic traditions. Rather, the work demonstrates that the Hebrew text must be understood through the rabbinic tradition in addition to (and sometimes in contrast to) the Greek and Aramaic textual tradition. Therefore, rabbinic traditions appear both to defend the use of a Hebrew text and to polemicize primarily against Antiochene approaches to the Hebrew text.[10] Important for our purposes here is the notion that Jerome exercises critical judgement in his utilization of sources in order to promote a coherent argument. Jay's analysis of the *Commentary on Isaiah* highlights Jerome's attempt to extract a unified reading of biblical pericopes through the format of the lemmata. He explains that the length of biblical lemmata gradually increases in Jerome's commentaries, in contrast to the fragmented citations of Classical grammarians, because Jerome fears that the unified sense of the biblical text will be lost through line-by-line commentary.[11] Thus, the work of Jay and Kamesar demands from us careful attention to the integrating elements and themes of Jerome's commentaries.

Although recent scholars who have concentrated on the *Comm. Eccl.* encourage a unified reading of the text, none has fully addressed this unity or attended to Jerome's critical judgement. Very few scholars have worked on Jerome's *Commentary on Ecclesiastes*, and fewer still have analyzed his exegesis of 12:1–7.[12] Such research can be roughly divided into three types: source-critical, literary-

9 Kamesar, *Jerome, Greek Scholarship*, 176–79 and Jay, *L'exégèse*, 75: "Et le *Commentaire sur l'Ecclésiaste*, celui qui reflète sans doute le mieux les tendances de l'exégèse grammaticale à la compilation des sources, n'en laisse pas moins paraître ici ou là une autonomie de jugement qui préfigure, à une vingtaine d'années de distance, cette déclaration d'intention du *Commentaire sur Zacharie*: 'En suivant plusieurs de ces opinions et en en écartant d'autres, présentons ce que nous pensons.'"

10 Kamesar, *Jerome, Greek Scholarship*, 175–82. There is neither time nor space here to clarify Kamesar's rich and nuanced argument. I simply want to note that Kamesar has clearly proven the deep connections between the various traditions cited by Jerome in an apparently "hybrid" work.

11 Jay, *L'exégèse*, 76–83 ("La connotation péjorative qui caractérise cet emploi confirme que Jérome regarde ce *commaticum genus* avant tout comme une manière de procéder, dont le propre — et le risque — est de morceler le texte," 79). The *commaticum (interpretationis) genus* 'divided form of interpretation' refers to the type of line-by-line commentary of Servius and Donatus who concentrate on brief lemmata.

12 Jerome, of course, is often acknowledged and cited, but works specifically analyzing his exegesis of Ecclesiastes are rare.

historical, and history of interpretation. The two most important source-critical works belong to Louis Ginzberg and Sandro Leanza. Ginzberg has brilliantly identified virtually all of the rabbinic traditions relevant to Jerome's *Commentary on Ecclesiastes*.[13] Leanza demonstrates Jerome's dependence on Origen, Gregory Thaumaturgus, Apollinaris, Victorinus, and Didymus.[14] Surprisingly, even though Leanza acknowledges the influence of Jewish traditions on Jerome, he does not mention Ginzberg's article.[15] While the source-critical approach of Ginzberg and Leanza provides the necessary building blocks for analyzing the commentary, each article has its limitations. By not considering both Jewish and Christian traditions together, Ginzberg does not rule out the possibility that Jerome received his Jewish tradition from a Christian source (such as Origen), while Leanza does not fully deliver on his intention to identify Jerome's sources. Moreover, neither scholar explains how the sources relate to each other or how Jerome fits them together to form a commentary.

Leanza has produced additional studies that address the relationship between sources both synchronically and diachronically. According to a literary-historical study by Leanza on the whole *Commentary of Ecclesiastes*, Jerome does not simply gather various sources out of antiquarian interest, but rather marshals the forces of allegory and philology to present a unified exegesis of the text: "All is vanity, nevertheless it is permitted to enjoy the pleasures of life in respect of the divine law and in awareness that joy, too, legitimately enjoyed, is a vain thing."[16] This notion of a unified exegesis corrects an earlier diachronic

13 Louis Ginzberg, "Die Haggada bei den Kirchenvätern: V. Der Kommentar des Hieronymus zu Kohelet," in *Abhandlungen zur Erinnerung an Hirsch Perez Chajes* (Wien: The Alexander Kohut Memorial Foundation, 1933) 22–50.

14 Sandro Leanza, "Sulle fonti del *commentario all'Ecclesiaste* di Girolamo," *Annali di storia dell'esegesi* 3(1986)173–99. Leanza, well known for his work on the catena on Ecclesiastes, carefully and correctly utilizes the catena tradition to isolate especially the influence of Origen on Jerome (see 178ff.).

15 Leanza, "Sulle fonti," 198. Although Leanza correctly recognizes that Jerome primarily received his Jewish traditions orally (see also Hillel Newman, "Jerome and the Jews" [Ph.D. diss., Hebrew Univ., 1997] 70–122 [Heb.]), he underestimates our ability to find parallel traditions in rabbinic literature: "Ma la maggior parte delle intepretazioni ebraiche riferite da Girolamo, da lui apprese dall viva voce del suo 'magister Hebraeus,' non trovano riscontro nella letteratura esegetica ebraica a noi pervenuta: di qui la grande importanza che assume il Commentario geronimiano anche per la ricostruzione dell' esegesi ebraica dell'*Ecclesiaste*."

16 Sandro Leanza, "Il 'commentario all'Ecclesiaste' di Girolamo: Il problema esegetico," in Y. M. Duval, ed., *Jerome entre l'Occident et l'Orient* (Paris: Études augustiniennes, 1988) 280 (translation mine). For example, in order to oppose Epicurean notions in Ecclesiastes, Jerome, like Didymus and Origen, allegorically reads food and pleasure as spiritual food and wisdom. At other times, like Gregory Thaumaturgos, Jerome exploits the more philologically based technique of *prosopopoea*, which attributes arguments to an imaginary speaker. Thus, the literal sense of the text is correct, but propounded by Solomon's constructed opponent (Leanza, "Il 'commentario,'" 275–76). See also p. 279. In "Le tre versioni geronimiane dell' Ecclesiaste," *Annali di storia dell' esegesi* 4(1987)87–108, Leanza convincingly demonstrates that the Vulgate correlates with the expanded discussion in the commen-

study that concentrates on the eschatological reading of Eccl 12:1–7.[17] Situating Jerome within the history of a particular type of interpretation, Leanza attributes the influence of Gregory Thaumaturgus' cosmic eschatological allegory as well as Didymus' ecclesiastical eschatological allegory to a kind of cafeteria response to a traditionally difficult exegetical crux: Jerome seems to be addressing the exegetical difficulties by offering a variety of possible interpretations.[18] While in the end Leanza correctly identifies the old-age allegory as Jerome's preferred interpretation, he does not account for this preference nor does he explain its relation to the eschatological allegory.[19] However, this diachronic study does prove that Jerome is the first Christian to cite the old-age allegory and that he clearly subordinates the Christian and cosmic eschatological readings.[20]

Approaching patristic literature from his work in rabbinic literature, Marc Hirshman, like Leanza, combines the source-critical and literary-historical approaches.[21] Particularly interested in the dating of rabbinic traditions, Hirshman's dissertation utilizes Jerome's commentary to prove the contemporary existence of Jewish interpretive traditions on Ecclesiastes.[22] In his subsequent work on Jerome and the *Commentary on Ecclesiastes*, Hirshman seeks to situate

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tary. Thus, the Vulgate version of Ecclesiastes represents a philological synthesis based on a combined allegorical and literal reading of Ecclesiastes. See also Svend Holm-Nielsen, "On the Interpretation of Qoheleth in Early Christianity," *VT* 24 (1974) 168–77. The compatibility between allegorical and literal exegesis assumed by Jerome corresponds with Kamesar's claim that Jerome conceptualized the conflict between Antiochene and Origenian philology as "non-Hexaplaric" v. "Hexaplaric" rather than literal v. allegorical. See Kamesar, *Jerome, Greek Scholarship*, 28–40, and his review of C.T.R. Hayward, *Saint Jerome's Hebrew Questions on Genesis*, tran. with Introduction and Commentary (Oxford: Clarendon, 1995), in *JTS* 47 (1996) 699–700.

17 Sandro Leanza, "Eccl. 12,1–7: L'interpretazione excatologica dei Patri e degli esegeti medievali," *Augustinianum* 18 (1978) 191–207.

18 Leanza, "Eccl. 12,1–7," 196: ". . . ma giacchè è conspaevole della difficoltà del testo e della molteplicità delle interpretazioni che se ne davano (*In hoc captiulo diversa omnium explanatio fuit* — egli dice — *et tot sententiae paene quot homines*), ne proponoe più d'una, e tra le altre — per limitarci qui a quanto strettament ci interessa — anche quella escatologica, che però egli applica solo ad alcuni versetti della pericope." ("But since in awareness of the difficulty of the text and the multiplicity of interpretations that have been given of it . . . he puts forward more than one, among which — by limiting himself to that which narrowly interests him — is also the eschatological interpretation, which therefore he applies singularly to each verse of the pericope" [translation mine]).

19 Leanza, "Eccl. 12, 1–7," 196, n. 31.

20 It is surprising, however, that Leanza does not compare the Jewish eschatological reading with the Christian eschatological reading, for the Jewish eschatological reading nicely portrays the Jewish past as a paradigm for the Christian future.

21 Marc Hirshman, *Midrash Qohelet Rabbah Chapters 1–4: Commentary (Ch. 1) and Introduction* (Ph.D. diss.; Jewish Theological Seminary of America, 1983) 1–25 (Heb.), and *A Rivalry of Genius: Jewish and Christian Biblical Interpretation in Late Antiquity* (Albany: SUNY Press, 1996) 95–108.

22 Hirshman, *Midrash Qohelet Rabbah*, 16–25. While relying primarily on Ginzberg, Hirshman identifies traditions not mentioned by him (22).

Jerome's use of Jewish sources within broader historical and literary concerns, and he conceptualizes Jerome as a synthesizer of the two popular schools of exegesis of his time — Alexandrian and Antiochene.[23] Hirshman thereby explains why Jerome draws on the allegorical exegesis of Didymus and a more literal exegesis perhaps represented by Apollinaris.[24] Jewish traditions then appear for two reasons, one literary, one historical: they support Jerome's commitment to the Antiochene advocacy of literal interpretation, and they facilitate a polemical response to the danger posed by Judaism to the Church in the late fourth century.[25]

Hirshman's conclusions are applicable to some parts of Jerome's *Commentary on Ecclesiastes*, but they are contradicted by Jerome's reading of Eccl 12:1–7. Here Jerome not only explicitly rejects Apollinaris, but he also draws on two allegorical Jewish traditions. While Hirshman argues persuasively that Jerome does more than compile various traditions, I do not see the various traditions as discrete planks in a general argument, but rather as *interacting with each other.* That is, the Jewish, Christian and Classical traditions inform each other. As a whole then, Kamesar, Jay, Leanza, and Hirshman all converge toward a unified reading of Jerome's commentary.

Since few scholars have paid close attention to Jerome's interpretation of Eccl 12:1–7, it is not surprising that no one has noted the unique fact that Jerome draws on Jewish allegorical exegesis.[26] On Eccl 12:1–7, Jerome employs not one, but two Jewish traditions that are both allegorical. Assuming that Jerome exercises critical judgement, we cannot account for his preference for the Jewish traditions because they better explain the literal exegesis. We must explain the surprising fact that Jerome prefers the Jewish allegory to the Christian allegory.[27]

This explanation depends upon a comprehensive reading of Jerome on Eccl

23 Hirshman, *Rivalry*, 96–100.

24 Hirshman, *Rivalry*, 101, correctly acknowledges the risk of overdrawing the distinction between Antiochenes and Alexandrians, since Antiochenes did advocate attention to the literal in combination with attention to the "theoretical." On the Antiochene concept of "theoria," see Manlio Simonetti, *Biblical Interpretation in the Early Church*, trans. John A. Hughes (Edinburgh: T & T Clark, 1994) 67–77. Although Apollinaris taught in Antioch, the scant evidence from his fragmentary commentaries does not demonstrate adherence to Antiochene canons of interpretation. See Johannes Quasten, "Apollinaris of Laodicea," *Patrology* (4 vols.; Allen, Tex.: Christian Classics, first published 1957) 3:377–78.

25 Hirshman, *Rivalry*, 95, 100, 105–6.

26 Despite much debate over Jerome's Jewish sources, there is general consensus that the Jewish traditions provide literal/historical exegesis while the Christian tradition provides the tropological exegesis. See Smalley, *The Bible*, 21; Kamesar, *Jerome, Greek Scholarship*, 178; Jay, *L'exégèse*, 194–200; Angelo Penna, *Principi e crattere dell'esegesi di San Gerolamo*, SPIB 102 (Rome: Pontificio Istituto Biblico, 1950) 41; Newman, "Jerome and the Jews," 192–95.

27 To be sure, the difficult nature of 12:1–7 itself cries out for allegorical interpretation. I suppose one could claim that Jerome utilizes Jewish traditions to arrive at the *peshat* of the text (which may be allegorical), but there is no reason to assume that Jerome was aware of this term.

12:1–7. Conceptualizing Jerome's reading of Eccl 12:1–7 as an integrated unit correlates with current research on the nature of Jerome's commentaries. The unified approach to Eccl 12:1–7 counters the traditional notion among some scholars that the commentary is composite in nature.[28] Furthermore, we find Jerome exercising his critical judgement on Apollinaris and Symmachus on 12:5.[29] We can also highlight several elements pointing to unity; for example, many scholars have noticed that, as a whole, Jerome's commentary has a universal vision of promoting asceticism.[30] Jay's analysis of the length of lemmata is also relevant. That Jerome saw Eccl 12:1–7 as a unit not only emerges from the longer than usual lemma for verses 11:9–12:1, but also from the initial allegorical paraphrase of verses 11:9–12:7 in the Commentary and the entire quotation of 12:1–7 in *Ep.*140. Moreover, Jerome explains that 12:6–8 depends on 12:1 ff. after a long hyperbaton. Finally, Jerome programmatically describes his exegeses of these verses with a striking metaphor:

> In this chapter . . . let it suffice for the prudent to indicate what they think . . . as if to paint the regions of the earth in a kind of small tablet and demonstrate the immensity of the whole world and circuit of the ocean by means of a narrow abridgement (*Comm. Eccl.* 11:9–12:1).

Jerome's commentary here serves two purposes, to select the best opinions and present them in summary form.

Jerome accomplishes his purposes in two ways: he begins with a paraphrastic summary of verses 11:9–12:7 and then presents a line-by-line exegesis of each

28 Penna, *Principi*, 41, on Ecclesiastes:

"The commentary on Ecclesiastes constitutes a milestone inasmuch as it was the first exegetical work of Jerome in which he translates directly from the Hebrew (in reality he often simply provides rather a skillful revision of a preexistent version), and amply uses rabbinic exegesis, the fruit of his contacts with the famous 'Hebreus.' But, for our question, the commentary proves precisely that there was not in Jerome the putative evolution from convinced allegorist to literal exegete of the Bible. In fact, the proportion of the two kinds of exegesis, literal and allegorical, appears to be roughly identical to that which has been noted in the commentaries on the prophetic books. Allegory is abundant and sometimes very free, but the usual literal exegesis is not at all missing. This can be observed not only in the sympathetic citation of Classical authors (Sallust, Cicero, Horace, Terence, and Virgil), but also in the ample space reserved for textual criticism and for various paraphrases of the text. Besides the 'Hebreus,' we find exact citations of Christian writers always used to illuminate better the literal sense or the natural moral applications of this sapiential text (cf. Jerome's comments on Eccl 4.13–17). Indeed, on account of its brevity and the naturalness of some of its allegorical interpretations, the present commentary, if compared to the ones on the books of the Prophets (especially the minor ones), would suggest rather an evolution opposite of the one generally supposed, even if some difficulties are thereby avoided rather than resolved (cf. *Comm. Eccl.* 9:7)."

29 Also noticed by Jay, *L'exégèse*, 75.

30 See J.N.D.Kelly, *Jerome: His Life, Writings, and Controversies* (New York: Harper and Row, 1975) 150.

verse ("However, returning to the order of the preceding discussion, we will attempt to explain things verse by verse").[31] By introducing the paraphrase with the remark that "the Hebrews suppose that the command pertains to Israel" and concluding the pericope, "up to today the Jews express these things and apply the meaning of this chapter to themselves," Jerome explicitly draws attention to his Jewish source.[32] The line-by-line exegesis incorporates four different readings introduced by *aliter* 'another interpretation': an apocalyptic reference to the end of the world, an allegorical reference to the Church, a metaphorical reference to death, and an allegorical description of the onset of old age.[33] The allegorical reference to the end of the world derives from Gregory Thaumaturgus' *Metaphrasis of Ecclesiastes*, the allegorical reference to the Church is based on Didymus, while the onset of old age is based on a tradition preserved in the Talmud (*b.Šabb.* 151a–153a).[34] In dividing the commentary between paraphrase and line-by-line exegesis, Jerome creates an unusual relationship with his sources. He adopts the form of Gregory's paraphrase, but prefers using the Jewish version while scattering the Christian paraphrase throughout the commentary. In addition, he clearly identifies the paraphrase as Jewish, but does not emphasize the Jewish origin of the allegorical description of old age.[35] The subsequent de-emphasis of the Christian interpretations fits the development of the exegesis, because by the time Jerome reaches 12:5 and 12:6–8, he has dropped the Christian exegeses altogether and only refers to old age and death. Thus, the structure of the passage generates a unity that emphasizes the Jewish interpretations at the expense of the Christian interpretations.

The Historical Allegory

Louis Ginzberg noted long ago the striking parallels between *Ecclesiastes Rabbah* (QR) 12.7 and Jerome's historical paraphrase of Eccl 11:9–12:7.[36] Since Ginzberg

31 *Nos autem ad superioris disputationis ordinem revertentes, singula conabimur explanare* (*Comm. Eccl.* 12:1–2).

32 Ginzberg, "Die Haggada," 44, identifies the source as *Ecclesiastes Rabbah*.

33 While Jerome clearly distinguishes between the reference to death and old age, he drops the death metaphor and concentrates on old age, which ultimately leads to death.

34 Sandro Leanza, "Eccl 12,1–7," 195–97. On Gregory Thaumaturgus, see John Jarick, *Gregory Thaumaturgos' Paraphrase of Ecclesiastes* (Atlanta: Scholars Press, 1990).

35 Jerome does write: *Hebraei ad Israel aestimant pertinere mandatum . . . ut fruatur divitiis suis, et antequam ei captivatatis tempus adveniat et adolescentiam senectute commutet* ("The Hebrews suppose that the command pertains to Israel . . . that they should enjoy their resources before the time of captivity comes and they exchange youth for old age"). However, he does not emphasize the Jewish source of the old-age allegory as his does in the case of the paraphrase of Israelite history.

36 Ginzberg, "Die Haggada," 44ff. The midrash also appears in *Ecclesiastes Zuta* and *Lamentations Rabbah*, pet. 23. Although *Lamentations Rabbah* antedates QR, I concentrate on QR because its version more closely parallels Jerome's.

juxtaposes Jerome's version to the rabbinic texts seriatim, I will adopt a different presentation in order to illustrate the genre of the historical paraphrase. In order to highlight the paraphrastic additions of the passage, I have italicized the strictly biblical sections:

> The Hebrews suppose that the command pertains to Israel to whom it is commanded to enjoy their resources *before* the time of captivity *comes* and they exchange youth for old age. *Rejoice therefore in your youth,* O Israel, and do these things previously mentioned *before* the captivity *comes.* And *before* your honor and glory depart and your judges and holy men *are carried off* who are compared to the *sun, moon,* and *stars. Before* Nebuchadnezzar *comes* or Titus, son of Vespasian, summoned by the prophets, and before their prophecies are fulfilled. *On that day on which the guardian* angels of the temple *will depart and the most powerful* in your army *will be thrown into confusion* and the precepts of the teachers *will become useless,* and the prophets *will become dark* who used to be able to receive the light of their visions. When *the doors* of the Temple *are closed* and Jerusalem *is humbled* and the Chaldean *comes,* summoned by calls of Jeremiah just like *the singing of a bird and the daughters of song,* i.e., the choruses of those singing in the Temple, *become silent.* At that time, when they were coming to Jerusalem, those enemies *feared* God's greatness *and hesitated on the road,* for *they feared* the fate of Sennacherib. For they thought that thus it had been said, "*They will fear from on high and they will tremble on the way*" (cf. Isa. 37). In those days *the almond tree will flower,* that stick and staff which Jeremiah saw at the beginning of his prophecy, *and the locust will become*

The relationship between Jerome and his Jewish sources is quite complex. Since Jerome sometimes derives his Jewish sources from a Greek Christian source, one cannot always assume that a parallel to Jerome in rabbinic literature proves Jerome's direct dependence on a Jewish tradition. See Hillel Newman's excellent discussion of the problem of Jerome's Greek and Jewish sources in "Jerome and the Jews," 103–11. The possibility that Jerome received his Jewish traditions through a Greek Christian source can be ruled out in this particular instance. No commentary of Origen is preserved on Eccl 12:1–7, while Gregory Thaumaturgus, Didymus, Olympiodurus, and Theodore of Mopsuestia do not have the old-age or historical allegory (this does not mean that the Greek tradition did not read the verses allegorically or in reference to Judaism; rather, apart from Theodore of Mopsuestia, there is no evidence of any awareness in the Greek tradition of the Jewish reading of these verses). Another problem arises from the character of the Jewish source itself, for the preserved text cannot be assumed to be identical with the "text" before Jerome. Not only has Newman ("Jerome and the Jews," 98–103) demonstrated that Jerome received oral Jewish traditions, but these traditions appeared in written form after extensive editorial revision (see H.L. Strack and Gunther Stemberger, *Introduction to the Talmud and Midrash,* trans. by Markus Bockmuehl [Minneapolis: Fortress Press, 1992] 42–49 , on the relationship between oral and written tradition). This means that parallel versions of a Jewish tradition must be compared because these other versions could include elements available to Jerome that were not preserved in later editions of rabbinic sources.

> *fat*, i.e., Nebuchadnezzar and his army, and *the caper bush will disintegrate*, i.e., the covenant of God with Israel . . . However, all this will happen to Israel because *the Man will go to his eternal home*, and will return from the garrison of God to the heavens. And when he goes away into his own tabernacle, *they will go around the streets in tears* hemmed in by the siege of the enemy. Rejoice, therefore, Israel in your youth, *before the silver thread is broken*, that is, while your glory is with you, *before the golden band runs back*, that is the ark of the covenant is carried off, before *the pitcher is wasted away at the fountain and the wheel rolled over the pit*; that is, as long as the commandments of the law and the favor of the holy spirit are in the Holy of Holies and before you *return* into Babylon from whence you went out through the loins of Abraham and you begin to waste away in Mesopotamia, from whence you set out. And the whole favor of prophecy by which you had been inspired *will return to its giver*.[37]

The obvious differences between Jerome and *Ecclesiates Rabbah* can be explained as a result of Jerome's epitomized version of the exegesis as well as the transmission history of the QR pericope.[38] A careful comparison of the similarities and differences in the rendering of particular phrases clearly indicates that Jerome had direct knowledge of a Jewish tradition, but this tradition has been preserved

37 *Laetare ergo in iuventute tua*, o Israel, et fac illa vel illa, de quibus iam dictum est *antequam* captivitas *veniat*; et a te tuus honor recedat et gloria, et iudices, et sancti tui quos in *sole*, et *luna*, et *stellis* intellegi volunt, *auferantur*. *Antequam veniat* Nabuchodonosar, sive Titus Vespasiani filius accitus a prophetis et eorum vaticinia compleantur. *In die qua* angeli templi *praesides recedent et turbabuntur robustissimi quique* in exercitu tuo, et *otiosa erunt* eloquia magistrorum, et prophetae, qui de caelis solebant visionum suarum lumen accipere, *contenebrescent*. Quando *claudentur* templi *ianuae*, et *humiliabitur* Ierusaelem, et Chaldaeus *veniet*, quasi *cantu volucris*, ita Ieremiae vocibus provocatus, et *conticescent filiae cantici*, in templo psallentium chori. Illo tempore, quando venientes Hierosolymam, ipsi quoque hostes Dei magnitudinem *pertimescent et in via dubii*, Sennacherib interitum *formidabunt*. Hoc enim dictum putant: *Et ab excelso timebunt et formidabunt in via*. In illis diebus *florebit amygdalum*, ille baculus et virga quam Ieremias in prophetiae suae vidit exordio, *et impinguabitur locusta*, Nabuchodonosor cum suo exercitu, *et dissipabitur capparis*, amicitia Dei cum Israel. . . . Hoc autem totum eveniet Israeli, *quia abiturus est homo in domum aeternitatis suae*, et a praesidio Dei ad caelestia reversurus, quo abeunte in tabernaculum suum, *circumibunt in platea* flentes atque *plangentes*, et hostium obsidione vallati. Laetare ergo, Israel, in iuventute tua, *antequam rumpatur funiculus argenteus*, hoc est donec gloria vestra vobiscum est, *antequam recurrat taenia aurea*. Id est antequam arca testamenti auferatur; priusquam *conteratur hydria ad fontem, et conuoluatur rota super lacum*; id est donec in sancta sanctorum praecepta legis, et sancti Spiritus est gratia, et antequam *revertaris* in Babylonem, unde in lumbis egressus es Abrahae, et incipias in Mesopotamia conteri, unde quondam profectus es. Omnisque gratia prophetiae, qua quondam fueras inspiratus, *revertatur ad datorem suum*.

38 Cf. Strack-Stemberger, *Introduction*, 345. Hirshman, *Midrash Qohelet Rabbah*, 18, notes that Jerome often preserves the "seed" of an interpretation related to Qohelet that demonstrates that "organized interpretations and aggadahs existed in the time of Jerome."

differently in QR. The biblical text receives virtually identical allegorical treatment in QR and Jerome:[39] גלות 'exile'/*captivitas*, sanhedrin/*judices*, תלמידי חכמים 'sages'/*sancti*, משמרות כהונה ולויה 'guard of the high priest and levites'/*templi praesides* 'guards of the Temple,' משניות גדולות 'large collections of teachings'/*eloquia magistrorum* 'teachings of the masters,' Nebuchadnezzar/*chaldeus*, זכות אבות 'merit of the fathers'/*amicitia*,[40] 'from Babel they came and to Babel they went'/*revertaris in Babylonem, unde . . . egressus es* 'you return into Babylon from whence you went out.' Even more compelling are the reading of וינאץ השקד as a reference to Jeremiah 1:11, and Jerome's "those enemies feared God's greatness and hesitated on the road" which nicely summarizes the two aggadot describing Nebuchadnezzar's reluctance to attack Jerusalem and his use of magic to determine the road.[41] Moreover, Jerome correctly understands that QR believed that Nebuchadnezzar's grandfather was Sennacherib.[42]

Nevertheless, Jerome's differences from the rabbinic discourse are equally significant. Besides not having numerous aggadic elements, Jerome reads קול הטחנה 'the noise of the handmill' as a reference to Jerusalem, not Torah; he does not mention chosenness, priests, or the house of David; and nowhere does the Midrash mention Titus.[43] Since, as Ginzberg noted, the Jewish sources only preserve one version of the midrash,[44] the differences can be attributed to a variant form in which Jerome received the exegetical tradition.[45] However, Ginzberg fails to consider why Jerome uses this Jewish source and the possibility that Jerome manipulates his Jewish source.

39 See Appendix 1 for further parallels. I am summarizing here much of the information found in Ginzberg in order clarify the argument and because Ginzberg's article is not always readily available.

40 Ginzberg, "Die Haggada," 46, argues that *amicitia* derives from a midrash on Deut 7:8 that connects God's love of Israel with God's promises to the Fathers. However, I believe Jerome is rendering a rabbinic notion in Roman terms. *Amicitia*, according to OCD3, can be a Roman political term that "might describe strong ties and indeed dependency," between states or individuals. "Loss of this friendship [with the emperor] was close to condemnation as a criminal." This friendship could be passed down from one generation to another through one's fathers. Note the phrase from the alternative ending to Terence's *Andria: amicitia nostra, quae est a patribus nostris tradita*, "our *amicitia*, which has been handed down by our fathers." Julius Caesar, *BC* 3.103 describes Pompey citing ancestral *amicitia* as a justification for receiving assistance from Alexandria. Jerome draws from his Classical Latin thesaurus to render a quintessentially rabbinic concept.

41 Ginzberg, "Die Haggada," does not mention this parallel.

42 See Ginzberg, "Die Haggada," 47.

43 However, it is rather odd that Nebuchadnezzar besieges Jerusalem with Roman military personae and implements, i.e., ספקלאטורין (*speculatores* 'executioners'), כלורכין (χιλιάρχοι 'chiliarchs'), אבני בלסטרא (βάλιστρα '[stones of the] catapult'), כבשין (siege embankments), סרפיניס (σάλπιγξ 'trumpet'), כרקומין (Roman siege camps).

44 ". . . diese Haggada in jüdischen Quellen nur in einer Version uns erhalten ist. . . ."; Ginzberg, "Die Haggada," 44.

45 As Newman, "Jerome and the Jews," 98–103, has demonstrated, Jerome utilized his Jewish sources in an oral, not written form. Nevertheless, the many similarities between Jerome and QR suggest that

The reason that Jerome might manipulate a Jewish source and highlight its Jewish origin is obvious: the pericope hardly compliments the Jewish nation. Not only does *Ecclesiates Rabbah* point to the prevalent neglect of the study of Torah, it does not even conclude with a *neḥemta*, a note of comfort: Jerusalem is besieged, the merit of the fathers ceases to function, and the Jewish nation returns to where it started as if it has not progressed at all.[46] Moreover, since the spirit of prophecy has ceased, a period of הבל הבלים 'utter futility' has begun.[47] That Jerome understands the exegesis as a condemnation of Israel especially emerges from a slight difference between Jerome and QR. For the biblical "guardians of the house" in 12:3, Jerome reads *angeli templi praesides* 'angels, guardians of the Temple,' while QR refers the phrase to the priests of the Temple.

Jerome's different reading reflects the influence of Josephus. The departure (*recedent*) of the guardian angels of the Temple alludes to the famous scene described in the Jewish War:

> Again, at the Feast of Pentecost, when the priests had gone into the inner court of the Temple at night to perform the usual ceremonies, they declared that they were aware, first of a violent movement and a loud crash, then of a concerted cry: "Let us go hence" (BJ 6.299).[48]

That Jerome follows his own particular reading of Josephus here is clear from his comment on Isaiah 66:6, ". . . when the guardian angels of the Temple said in one voice, 'Let us pass from this place.' Which not only Josephus the Jewish historian [mentions]. . . ."[49] Not only does Jerome use the identical phrase *praesides*

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the oral version was somewhat fixed. QR could represent an expanded version of such a fixed oral exegesis of Ecclesiastes, or Jerome's informant may have presented him with an exegesis epitomized from the midrash. The latter seems to be the case in the Targum to Qohelet which, being later than the midrash, derives its reading of the passage as an allegory of old age abridged from QR, LevR, and *b.Šabb.* 151a–153a. On the methodological problems associated with the use of internal literary criteria for the relative dating of texts, see Glenn Most, "The 'Virgilian' Culex," in Michael Whitby, Philip Hardie, and Mary Whitby, eds., *Homo Viator: Classical Essays for John Bramble* (Bristol: Bristol Classical Press, 1987) 199–209.

46 Similarly, LamR ends with Jeremiah's lament while QZ ends more ambiguously with the exiles of Jeconiah simultaneously rejoicing and mourning the arrival of the exiles of Zedekiah. However, the joy is merely pro forma lest they offend the victorious Babylonian monarch.

47 To be sure, a more positive interpretation of the passage could be argued. Essentially, the homily could be attempting to enhance rabbinic authority be articulating the negative results of the neglect of talmudic study. My point here is that Jerome could very easily and honestly read the passage as an uncategorical condemnation of the Israelite people.

48 Josephus, *The Jewish War*, trans. by G. A. Williamson; revised with a new introduction, notes, and appendix by E. Mary Smallwood (Hammondsworth, Middlesex: Penguin Books, 1981) 361.

49 *Quando praesides templi consona angeli voce dixerunt: Transeamus ex his sedibus. De quibus non solum Iosephus, Iudaicae scriptor historiae . . .*

templi angeli to identify the departing entities, unspecified by Josephus, but he also associates the reference with the Babylonian siege of Jerusalem in a comment on Isa 52:4–6.[50] The parallel to Josephus then explains Jerome's unique

50 *et ab Assyriis captivi violenter abducti sunt. Unde dicitur ad eos: et nunc quid estis hic? quid facitis in terra Iudaea, qui post necem prophetarum in Dei Filii misistis manus? Aut certe ad angelicas potestates et praesides templi angelos loquitur Deus: Quid hic facitis, cur non relinquitis populum blasphemantem? Quod et Iosephus refert: apertis repente ianuis templi, et sponte resaratis, quas multi homines claudere vix poterant, vocem de adytis templi exisse dicentium: Transeamus ex his sedibus. In quo consideranda sermonum proprietas, quod non dixerint: recedamus, sed: transeamus ad populum gentium* ("and the captives were violently led away by the Assyrians. Whence it is said to them: And now why are you here? What are you doing here in the land of Judea? You who after the murder of the prophets turned your hand against the son of God? Or at least God says to the angelic powers, the guardian angels of the Temple: What are you doing here, why have you not abandoned the blaspheming nation? Which also Josephus mentions: the doors of the Temple opened suddenly and loosened of their own accord which many people could barely close, and a voice went out from the shrine of the Temple of them saying: Let us pass [*transeamus*]from this place. In which the character of the language should be noted because they did not say 'Let us depart' [*recedamus*], but 'Let us pass [*transeamus*] to the gentiles'" [*Comm. Isa.*]).

In his *Comm. Isa.* 52:4–6, Jerome explicitly rejects *recedere*, which demonstrates that he paid close attention to the wording of this passage from Josephus and knew of the reading *recedere* (nor is it surprising that Jerome corrects himself, as he is constantly aware of issues in translation and criticizes his earlier work, such as the commentary on Obadiah). Since Jerome uses *recedere* in the *Commentary on Ecclesiastes*, he may be remembering Tacitus's account of the event. Cf. also Tacitus on the siege of Jerusalem, *Hist.* 5.13: *Apertae repente delubri fores et audita maior humana vox excedere deos; simul ingens motus excedentium* "Of a sudden the doors of the shrine opened and a superhuman voice cried: 'The gods are departing': at the same moment the mighty stir of their going was heard" (Moore, LCL). Moore, in the Loeb edition of Tacitus, cites a parallel from Virgil, *Aen.* 2.351, *excessere omnes adytis arisque relictis di quibus imperium hoc steterat*, "All the gods on whom this empire was stayed have gone forth, leaving shrine and altar" (Fairclough, LCL), and Macrobius, *Sat.* 3.9, on the Virgilian lines. Macrobius is instructive here; he understands these gods to be *tutelares* 'tutelary gods [of Troy],' a close parallel to *praesides*. Servius, a.l., parallels Macrobius. Hegesippus, 5.44, translates *ingredientes sacerdotes templi interiora nocturno tempore, ut sacrificia adsueta celebrarent, primo motum quendam sensisse se prodiderunt et sonum editum, postea etiam audisse repentina voce clamatum: transimus hinc.* ("The priests of the Temple were entering the inner shrine at night in order to perform the accustomed rites when they say that at first they perceived a certain movement and a sound issuing forth. Afterwards they even heard it shouted with a sudden noise: We are passing from here"). Granted that Jerome refers to Josephus, the question arises why Jerome fails to cite Josephus here on Ecclesiastes, although he does cite the passage from Josephus elsewhere (*Comm. Ezech.* 11:22–23, 47:6–12; and *Comm. Matt.* 27:51; cf. also Origen, *Cat. in Lam.* Fr. 109; and Eusebius, *Hist. Eccl.* 3.8.6; *Dem.*, 8.2, 121; and *Chron.* 175:11–18). The Chronicon is doubly significant. First, the work is preserved through the translation of Jerome, and second, the passage from Josephus is misdated to the time of the passion of Christ (*circa haec tempora* could hardly mean forty years later). It is likely that Jerome copied a mistake of Eusebius that he repeats in the commentaries on Ezekiel and Matthew, but not on Isaiah and Ecclesiastes. It seems to me that Jerome understood the portents around the destruction of the Temple in a specific way that included a part derived from Josephus. Since in *Comm. Eccl.* he is interested in fitting the biblical verses to the historical event in a paraphrastic way, it is unnecessary to cite

contribution of Titus to his rabbinic source: the Babylonian destruction "reminds" Jerome of Josephus' account of the Roman destruction, and this "memory" leads Jerome to make a tropological connection between Nebuchadnezzar and Titus. Jerome's use of Josephus here underscores the manner in which he utilizes exegetical traditions. Reading the passage from QR with Josephan eyes, Jerome does not simply copy the passage from QR, but rephrases it with Josephan corrections and additions.[51]

If we examine the relationship of Jerome's paraphrase to his theological agenda, we find further support for the claim that Jerome interpolates a Josephan reading into a rabbinic pericope. Read as a whole, Jerome's paraphrase of Eccl 11:9–12:7 articulates a biting insult of the Jewish people —"Rejoice, O Israel in your youth, before your captivity comes." However, Jerome has much to gain theologically from the inclusion of the Second Temple narrative in "Josephan" terms. The departure of the angels demonstrates two points: first, that the destruction of the Temple is a direct result of the crucifixion of Jesus and second, that divine protection has passed from the Jews to the nations.[52] The second point is explicitly stated by Jerome: "They [angels] do not say 'Let us depart' but rather 'Let us pass over' to the gentiles" (*Comm. Isa.* 52:4–6). Jerome clearly makes the first point amid an exegesis of Jer 17:14 in his *Comm. Ezek.* 46:6–12:

> And Josephus recounts in his History that after the Lord was crucified and the veil of the Temple split, a voice of heavenly powers was heard in the shrine: "Let us pass from this place."[53]

To be sure, portraying the destruction of the Temple as punishment for Jesus' crucifixion is a commonplace of ancient Christian theology.[54] But casting the

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Josephus. Jerome recounts a well-known story of the destruction of the Second Temple that clearly derives from his reading of Josephus. Moreover, Jerome has already identified the source of the exegesis as Jewish and it is also well known that he does not always cite his specific sources (cf. Newman, "Jerome and the Jews," 70).

51 Such a claim is complicated by the fact that we do not know whether Jerome had the exact version of QR that we have. On the other hand, it is highly unlikely that the pericope from QR had the reference to Titus and "the guardian angels of the Temple" which Jerome derived from his reading of Josephus. For no place in rabbinic literature interprets the biblical "guardians of the house" as angels who guard the Temple and QR does not mention Titus here. Nor do LamR or QZ mention Titus. The absence of Titus is noteworthy because the Babylonian and Roman destructions of the Temple are commonly associated with each other (*b.Git.* 55b–57b and *m.Taʿan.* 4:6).

52 Marcel Simon, *Verus Israel*, trans. H.McKeating (Littman Library, New York: Oxford Univ. Press, 1986; first published 1964) 67–68.

53 *et Iosephus in sua narrat Historia, quod, postquam Dominus crucifixus est et velum templi scissum, . . . audita sit vox in adytis templi virtutum caelestium, Transeamus ex his sedibus.* Cf. *Comm. Matt.* 27:51.

54 Simon, *Verus Israel*, 67–68.

argument as a correlation with Jewish exegetical tradition is unique to Jerome. Although Jerome is not the first to connect Josephus with the splitting of the veil,[55] he particularly articulates the notion that Jewish exegesis also supports the Christian claim. One must distinguish here between the common Christian claim that Jews fail to interpret Scripture correctly[56] and Jerome's position. According to Jerome, in the case of Eccl 11:9–12:7, the Jewish tradition of scriptural interpretation is correct because it explicitly describes the punishment of the Jews. Indeed, as I noted above, even the version of QR must be read as a condemnation of the Jewish people.[57]

The Old-Age Allegory in Jerome and the Talmud

Although Jerome describes at length the interpretation of Eccl 11:9–12:7 promulgated by Jews "until today," he never returns to it. Rather, in the line-by-line part of the commentary, he stresses a second Jewish interpretation, the allegory of old age. Initially interspersed through the commentary, the allegorical reading of Eccl 12:2–4[58] would appear as follows if read continuously:

55 Cf. Origen, *Klagelieden*, Fr. 109.

56 See Simon, *Verus Israel*, 71, 145–53.

57 Since the ideology of the passage from QR/LamR requires its own separate study, there is not enough space here to examine this issue. I should not discount the possibility that QR reworked the tradition that Jerome received in order to excise the reference to the conquest of Titus. A trace of the Roman conquest can be seen in the Roman implements used by Nebuchadnezzar (see above, n. 43) and the retrojection of rabbinic institutions to the Babylonian period. Such a retrojection is quite common in rabbinic literature. For example, according to *m.Sanh.*1:5, the Sanhedrin originated in the time of Moses (see Ch. Albeck, *Shisha Sidre Mishnah* [6 vols.; Jerusalem: Bialik Institute and Dvir, 1952–58] 4:163–64). According to *b.Ned.* 32a, Abraham used sages (*talmidei hakhamim*) to rescue Lot. Considered in the context of Jerome's exegesis, the presence of rabbinic institutions coupled with the absence of the Roman period from QR can be construed more favorably from a Jewish point of view. For if Ecclesiastes refers only to the Babylonian conquest, then the exegesis cannot suggest that the destruction of the Temple functioned as punishment for the crucifixion of Jesus. In other words, the version in QR functions as a refutation of Jerome's assumption that even Jewish exegetes connect the destruction of the Temple to the death of Jesus. Second, even if according to QR all Jewish institutions perished and there was a period of "utter futility" after the destruction of the First Temple, it would be obvious that these institutions at some point were rebuilt. Therefore, the supersessionary claim of Christianity could be refuted when destruction refers only to the First Temple. Recently, Israel Yuval, "The Haggadah of Passover and Easter," *Tarbiz* 65(1996)5–28 (Heb.), David Halperin, "Origen and Seder Eliyahu: A Meeting of Midrashic Trajectories," in Marc Lee Raphael, ed., *Agendas for the Study of Midrash in the Twenty-First Century* (Williamsburg, Va: Department of Religion, College of William and Mary, 1999)18–42, and Daniel Boyarin, "Martyrdom and the Making of Christianity and Judaism" *JECS* 6(1998)577–627, have demonstrated the influence of Christian ideology on rabbinic pericopes. Boyarin attributes this influence not to contact between distinct constituencies, but to the permeability of religious "boundaries."

58 The interpretation of 12:2, "before sun and light and moon and stars grow dark," has been inserted into the comment on 12:3.

> Otherwise: *guards of the home*: Those who read all these as references to the body think that ribs are meant, because the innards are hemmed around by the ribs and the whole softness of the belly is preserved by them. They think that the *powerful men* refers to the thighs; *sun, moon and stars* they apply to the eyes, nose, ears, and all the senses of the head . . . Otherwise: *The grinders ceasing because they are lessened*, they think is said about the teeth. Or because they fall out by which the food is softened and transferred to the stomach. Moreover, *those looking in the cracks becoming dark* they think to be the eyes, because the eyesight darkens for the aged, the vision becomes obscured. . . . (*Comm. Eccl.* 12:3)
>
> *The doors are closed in the streets*, they wish to be understood as the weak steps of the elderly, because they always sit and cannot walk. *The lowering of the grinding voice*, they interpret concerning the molars because it is not possible to grind the wood and the thin voice is barely heard because of the constricted breath. Moreover, that *he rises at the voice of the bird* shows that with the blood already chilling and with the wetness dried, by which substances sleep is nourished, he wakes up at a light sound and when the cock crows in the middle of the night, he awakens quickly; but by no means very often can he stir his limbs from the bed. Also, *to become silent* or, as it is better in the Hebrew, *the daughters of song becoming deaf* indicates the ears because the hearing of old people becomes heavier and they are unable to distinguish between sounds or to enjoy songs. This very thing Barzillai says to David because he did not want to cross the Jordan (*Comm. Eccl.* 12:4).[59]

This allegorical explanation does not come as a surprise since already in his comment on Eccl 11:9–12:1 Jerome has noted that "the Hebrews think that the command pertains to Israel . . . , namely, to enjoy their resources before the time of captivity comes and they exchange youth for old age." That Jerome selects

59 Aliter: *Custodes domus,* qui ad corpus hominis referunt cuncta quae scripta sunt, costas significari putant, quoad ab ipsis intestina vallentur, et tota ventris mollitudo servetur. *Viros vero fortes,* crura aestimant; *solem et lunam et stellas,* ad oculos, nares et aures, et totius capitis sensus coaptant . . . Aliter: *Cessare molentes quia imminutae sint,* de dentibus dictum putant. Quod aut decidunt, quibus permoliti cibi in alvum transmittuntur. *Tenebrescere autem videntes in foraminibus,* oculos arbitrantur quod aetate confectis caliget acies, et intuitus obscuretur. . . .

Clausas in plateis ianuas, infirmos senis gressus accipi volunt, quod semper sedeat et ambulare non possit. *Humilitatem autem vocis molentis,* de mandibulis interpretantur, quod cibum terere nequeat et vix spiritu coartato, vox eius tenuis audiatur. Porro *consurgere eum ad vocem volucris,* ostendit, quod frigescente iam sanguine et humore siccato, quibus materiis sopor alitur, ad levem sonitum evigilet, noctisque medio, cum gallus cecinerit, festinus exsurgat; nequaquam valens strato saepius membra convertere. *Obmutescere* quoque, sive, ut melius habet in hebraeo, *surdescere filias carminis,* aures significat, quod gravior senum auditus fiat et nulla inter voces valeant scire discrimina, nec carminibus delectari. Quod quidem et Berzellai loquitur ad David, nolens transire Iordanem.

the physical allegory as the favored exegesis of the passage is, however, quite unexpected.[60]

Jerome's preference for the old-age interpretation returns us to the original questions of how and why Jerome uses his Jewish sources. Many scholars have recognized in passing the similarity between Jerome's allegorical exegesis here and Jewish traditions.[61] However, since no one has extensively compared Jerome and Jewish traditions on this passage, it is necessary first to engage in some basic source criticism.

The allegorical explanation in Jewish tradition appears in four sources: *Ecclesiastes Rabbah* 12 (QR), *Leviticus Rabbah* 18 (LevR), *Targum Qohelet* (TQ), and *b.Šabb.* 151a–153a. TQ can be ruled out as a source because it derives from QR, LevR, and *b.Šabb.*[62] Since QR and LevR tend to agree against *b.Šabb.*, QR and LevR must be considered as one unit.[63] As in the case of the paraphrase, we also must keep in mind that QR/LevR and *b.Šabb.* preserve versions that appeared to Jerome in a different form. So the question before us is whether Jerome's exegesis is closer to the QR/LevR tradition or the *b.Šabb.* tradition. A schematic comparison clearly indicates that Jerome follows the *b.Šabb.* tradition.[64] The most compelling reason is the reference to Barzillai in Jerome. Not only does Barzillai play a prominent role in the pericope from *b.Šabb.* (as the paradigmatic old man), he appears

60 As observed above, p. 11, by becoming the dominant interpretation of 12:5–7, the physical allegory is endorsed by the structure of the commentary.

61 See C. D. Ginsburg, *Song of Songs and Kohelet* (1861 repr.; New York: Ktav, 1970), a.l.; Roland Murphy, *Ecclesiastes*, WBC 23a (Word Books: Dallas) 115. Murphy, *Ecclesiastes*, liv, relying on Paul Flesher, misleadingly claims, "no midrashim were written about wisdom books in the rabbinic period." Jerome provides incontrovertible evidence that rabbinic exegesis of Ecclesiastes existed in at least a fixed oral form. Seow, *Ecclesiastes*, 372, mentions the Jewish traditions but not Jerome.

62 Peter S. Knobel, trans., "The Targum of Qohelet," in Martin McNamara, ed., *The Aramaic Bible* (19 vols.; Collegeville, Minn.: The Liturgical Press, 1991) 15:54–55: "The Targum [on Eccl 12:1–7], differs greatly from all the parallels [QR, LevR, and *b.Šabb.*]. The Targumist, as in other places, is not merely a copyist but a skilled editor who combines various versions." Knobel needs to be more precise here. For he includes QR as a source of TQ; however, on pp. 9, 12–15, he dates the Targum to between the redaction of the Babylonian Talmud and the appearance of Islam. Since QR may be dated to the eighth century (Strack-Stemberger, *Introduction*, 345), TQ could not have reworked QR. Moreover, Knobel correctly notes that the precise relationship between the targumim on the five megillot and rabbinic sources is difficult to determine. Therefore, LevR, QR, and the Talmud are preferable sources for reconstructing the tradition used by Jerome.

63 For example, QR/LevR on 12:2 ("and the clouds returned after the rain") record two unusual explanations according to R. Levi – sad thoughts produce tears or fools urinate after excreting – while *b.Šabb.* describes the faulty vision that derives from teary eyes. Similarly, on Eccl 12:3, QR/LevR render "grinder" as stomach while the Talmud has "teeth." Finally, QR/LevR, in contrast to *b.Šabb.*, expound the biblical verses sequentially. See Appendix 2 for further data. Thus, this fits the current view that ". . . LevR quotes M[ishnah], T[osefta], and the halakhic midrashim, and is in turn used already in the Midrash Rabbah on the Megillot (esp. CantR and EcclR) . . . ," Strack-Stemberger, *Introduction*, 316. LevR was redacted between 400 and 500 C.E. (Strack-Stemberger, *Introduction*, 316).

64 See Appendix 2.

in exactly the same spot in both Jerome and the Talmud, namely after the lemma ויחשו כל בנות השיר 'and all the daughters of song shall be brought low' (Eccl 12:4). The Talmud says:

> '*and all the daughters of the music shall be brought low*'— even the voices of male singers and female singers sound to him like a whisper. And thus too did Barzillai the Gileadite say to David: '*I am this day fourscore years old: can I discern between good and bad*'? This shows that the opinions of old men are changeable [changed]; '*can thy servant taste what I eat or drink*'? this shows that the lips of old men grow slack; '*can I hear any more the voice of singing men and singing women*'?[65] this proves that the ears of old men are heavy.[66]

Equally striking is the strong resemblance between Jerome's "they are unable to distinguish between sounds" and the Talmud's "even the voices of male singers and female singers sound to him like a whisper."[67] Finally, [*filias carminis*] *aures significat, quod gravior senum auditus fiat*," [*the daughters of song*] becoming deaf indicates the ears, because the hearing of old people becomes heavier," is almost a word for word translation of מכאן שאזניהם של זקנים מתכבדות,"this proves that the ears of old men become heavy."[68] Such associations cannot be construed as coincidental since the allegorical meaning of this section from Ecclesiastes is hardly obvious. Given this unique and close parallel between Jerome and *b.Šabb.*, the rest of the comparative evidence becomes more convincing. First, we find additional instances where Jerome and *b.Šabb.* agree against the other versions: 'men of valor' = thighs, 'grinders' = teeth, and 'and he rises to the sound of the bird' = the light sleep of an old man. Moreover, nowhere does Jerome agree with LevR and QR against *b.Šabb.*[69]

65 2 Sam 19:35.

66 *B.Šabb.* 152a, H. Freedman, trans. (London: Soncino Press, 1938), p. 776.

67 The parallels are even more compelling if we adopt the emended talmudic reading of "songs" rather than "singers":

שאפילו (קול שירים ושירות) [קול שרים ושרות] דומות עליו כשוחה:

68 The talmudic passage derives this conclusion from the Barzillai episode, not from Ecclesiastes.

69 Except perhaps on 12:2 where *b.Šabb.* has אור "light" = nose, while Jerome and LevR equate "moon" with nose. However, the context in Jerome argues against a strict reading of the parallels. In the first place, Jerome includes this particular interpretation non-sequentially, for he introduces the physical allegory of 12:2 at the end of the discussion of 12:3. Moreover, he introduces the physical allegory in passing and in a cursory manner (*qui ad corpus hominis referunt cuncta quae scripta sunt*, "who refer all these things that have been written to the body of a person"). Nor does he carefully report the biblical lemma again because he omits *lumen* recalling only *sol, luna, et stella*. By adding *et totius capitis sensus coaptant*, Jerome emphasizes the general parallels to the face. Perhaps Jerome also mixed up *lunam* and *lumen* because of the similarity in sound. Finally, *b.Šabb.* may have originally had "nose" for moon, but decided to associate "breath" with "moon" because of the similarity between ירח and רוח.

Jerome's reading of 12:5 requires special attention because it may easily be misinterpreted. At first glance he seems to follow QR/LevR's tradition rather than the Talmud's. A careful reading, however, indicates that he may well have had the *b.Šabb.* tradition in mind, although he does not follow it to the letter. Jerome's exegesis of 12:5 consists of two parts. The first part is an allegorical (or in Jerome's words, *per metaphoram*) paraphrase of the verse: "Because when old age comes, the hair becomes white, the feet swell, lust chills, and man is destroyed by death. Then he returns to the earth and his eternal home and when the funeral rites are properly celebrated, the crowd of mourners will precede the funeral."[70] The second part analyzes the ambiguous meanings of שקד, חגב, and אביונה (almond tree, grasshopper, and caper bush). Jerome tells us that almond tree could mean *sacra spina* according to some interpreters, and it is quite possible that these other interpreters could be related to the Jewish traditions preserved in QR.[71] Jerome's rendering of "the grasshopper becomes burdened" as *tumuerint pedes*, "the feet swell," comes from his reading עגב for חגב which reading he attributes to his Hebrew manuscript.[72] QR reads ankles, so Jerome may have in mind the tradition that QR follows. However, Jerome's reference to another interpretation, "with the flesh of the buttocks decreasing, the spine increases and spreads out,"[73] reflects his reading of *b.Šabb.* First, the allegorical referent used in *b.Šabb.* for almond tree, קליבסת, which probably refers to the coccyx, could be equated with the "nut of the spinal column" of QR and LevR.[74] Second, the Talmud uses עגבות, "buttocks," whose plural parallels the plural *pedes*. More-

70 *Quod cum senectus advenerit, capillus incanuerit, tumuerint pedes, libido refrixerit, et homo morte fuerit dissolutus. Tunc revertetur in terram suam et in domum aeternitatis suae sepulcrum exsequiisque rite celebratis, plangentium funus turba praecedat.*

71 Not only does QR render שקד as spine, it follows with an aggadah on how resurrection begins from the nut of the spinal column. This may explain why the spina is sacred in contrast to the pagan view: *sacra spinae est ima perpetuae spinae . . . quoniam primum infante concepto nascitur, ideoque ex hostia id primum a gentilibus diis suis dabatur, unde et sacra spina dicitur*, "the sacra of the spine are the lowest parts of the continuous spine . . . because it comes into being first when the infant is conceived, and likewise this was first given from the [sacrificial] victim by the nations to their gods, whence it is called the sacred spine" (Isidorus, *Etym.* 11.96).

72 "It must be understood that where *locusta* is read in our versions, *aagab* is written in the Hebrew which word is uncertain to them [*eos*]. For it could be translated "heel" [*talus*] and *locusta*." Clearly *pedes tumuerint* relates to *talus*. The plural *eos* is somewhat vague, but according to the sense of the passage, it refers to the Hebrews. Thus, Jerome argues that the Hebrews have various ways of understanding the word. It is irrelevant here that Jerome confuses the Hebrew word for "ankle" עקב with the Hebrew for "buttock" עגב, since we are identifying his Hebrew source, not whether he understood it correctly. Moreover, Jerome has already explained that חגב "grasshopper" is a difficult word. Of course, it would not be surprising in the Jewish tradition if there was a confusion between עקבות, "heels," and עגבות, "buttocks."

73 *descrescentibus natium carnibus, spina succrescat et floreat.*

74 See Jastrow, s.v., Preuss, 65, and Edward Reichman and Fred Rosner, "The Bone Called Luz," *The Journal of the History of Medicine and Allied Sciences* 51 (1996) 52–65.

over, Jerome refers to the decreasing *antes*, "rump," the actual meaning of עגבות. Thus, in "with the flesh of the buttocks decreasing the spine increases and spreads out," since "spine" refers to the almond tree, the decreasing buttocks parallels ויסתבל החגב of the Talmud.[75] All the Jewish traditions as well as Jerome understand "and the caper bush will crumble" as the absence of sexual desire in old age.[76] However, in his rendering of "with mourners all around the street," Jerome adds interpretive elements based on *b.Šabb.* alone. Nothing in the biblical text evaluates the funeral, whereas Jerome claims that the deceased has been properly mourned (*exsequiisque rite celebratis*). In addition, although the Hebrew (and Latin) states that the mourners will go around the street, Jerome provides a different image – 'the crowd of mourners will precede the funeral' (*plangentium funus turba praecedat*). Here Jerome reflects *b.Šabb.* 153a: *"And the mourners go about the streets.* The Galileans said: Perform actions [which shall be lamented] in front of thy bier; the Judeans said: Perform actions [to be lamented] behind thy bier."[77] QR and LevR understand the phrase as a reference to worms eating the flesh.

So far we have been comparing Jerome's exegesis with the talmudic exegesis of the biblical lemmata. However, as in Jerome, the talmudic version of the old-age allegory is interspersed into a larger discussion. In fact the entire *sugya* is based on a mishnah concerning proper burial on Shabbat. Throughout the talmudic *sugya* we find some details unique to Jerome although these aggadic additions are divorced from the biblical lemmata. On 12:4, Jerome attributes two characteristics to the elderly apparently not found in the rabbinic exegesis: the elderly have weak steps because they always stay at home (*semper sedeat*) and their voice is weak (*vix spiritu coartato, vox eius tenuis audiatur*). In *b.Šabb.*, between the explanation of 12:3 and 12:4 a brief amoraic aggadah appears:

> The emperor asked R. Joshua b. Hanania, "Why did you not attend the *Be Avidan*?" "The mountain is snowy, it is surrounded by ice, the dog does not bark and the grinders do not grind."[78]

Not only do we find a reference to the voice becoming weak (this is the meaning of "the dogs not barking"), but we also have the image of someone not leaving his

75 Such a reading is not so far-fetched if the Jewish tradition behind *b.Šabb.* punctuated the text differently, reading: וינאץ השקד ויסתבל החגב ותפר, "the almond tree will sprout and become fat [= *suc cresat et floreat*] and the buttocks will be dissipated [= *decrescentibus natium carnibus*]."

76 For the sake of clarity I have translated Jerome's version of the biblical phrase. The Hebrew literally reads, "the caper bush may bud again" (JPS). "Lust" can easily be derived from "caper bush" whose root is identical with the Hebrew for "desire."

77 Note that Jerome did not have the benefit of the parenthetical "clarifications."

78 *B.Šabb.* 152a

home. We have already seen that grinders refer to teeth, but even the whiteness of old age appears in Jerome's exegesis of the almond tree (Eccl 12:5): "We have set 'flower of the almond tree' for 'white hair.'"[79] It does not seem to me significant that Jerome departs from the Jewish tradition on 12:6 because he follows the spirit of the rabbinic exegesis. All the rabbinic readings continue to see references to specific physical phenomena, while Jerome sees everything as general metaphors for death. However, even the Jewish readings interpret 12:6 as particular types of death. For example, QR, LevR, and *b.Šabb.* interpret the "jug at the spring/source" as the stomach of the decaying corpse regurgitating through the mouth, while Jerome metaphorically contends that just as the jug ceases to drain liquid when it is broken, so too does a person die when the connection to the source of life is severed.[80]

Besides following specific interpretations found in *b.Šabb.*, Jerome also sets his interpretation in a similar context. Such close similarities between Jerome and *b.Šabb.* indicate that Jerome must have had a fixed form of the pericope available.[81] Utilizing *b.Šabb.* then fosters insight into Jerome's mode of employing

79 Previously Jerome paraphrases *capillus incanuerit.*

80 Jerome's reading of 12:6 has close parallels to the Greek tradition. See especially, Alexander Leanza, ed., *Pseudochrysostomi Commentarius in Eundem Ecclesiasten,* CCSG 4 (Turnhout: Brepols, 1978) and Santo Lucà, ed., *Anonymus in Ecclesiasten Commentarius qui dicitur Catena Trium Patrum,* CCSG 11 (Turnhout: Brepols, 1983) a. l.

81 The many similarities between QR, LevR, and *b.Šabb.* coupled with their differences all point to a common Palestinian source that was developed in different ways. *T.Šabb.* 18:11 makes the connection between the Mishnah and Kohelet 12:6. Since 12:6 appears first in the Talmudic passage and is not expounded by Jerome according to Jewish tradition, the allegorical exegesis of 12:1–5 was the fixed pericope available to Jerome. Shamma Friedman, "Literary Development and Historicity in the Aggadic Narrative of the Babylonian Talmud: A Study based upon B.M. 83b–86a," in Nahum Waldman, ed., *Community and Culture: Essays in Jewish Studies in Honor of the 90th Anniversary of the Founding of Gratz College, 1895–1995* (Philadelphia: Gratz College, 1987) 67–80, demonstrates that the Bavli preserves Palestinian aggadic collections.

This raises the notoriously difficult question of dating the talmudic *sugya* and the extent of its Palestinian provenance. However, in this particular instance, dating and provenance are not a problem. In the first place, Jerome himself provides external evidence of the *sugya*'s fourth century Palestinian provenance. In the second place, with three exceptions, all the quotations of Eccl 12:1–7 are unattributed to any sage. However, these exceptions prove the rule. When R.Kahana read 12:5 before Rav (*b.Šabb.* 151a), Rav would groan, which R.Kahana understood as indicating that Rav and his wife ceased having sexual relations (thereby indicating that both Rabbis were aware of the verse's interpretive tradition). Although technically Babylonian sages, both Rabbis had Palestinian connections (see Strack-Stemberger, *Introduction,* 93, 95). The *sugya* also cites R.Yitzchak's exegesis of the last part of 12:5, but he is a third-generation Palestinian sage of the Amoraic period. (Moreover, the identical interpretation is found in LevR anonymously and in QR under the name of Resh Laqish, a second-century Palestinian Amora). The only explicit exegesis attributed to a Babylonian sage appears on 152b where Mari (third-generation Babylonian Amora) understands 12:7 to mean that even the flesh of the righteous will decay. However, Jerome does not use the Jewish

Jewish sources. First, let us consider the role of Ecclesiastes in the talmudic *sugya* and compare it with the function of these verses in Jerome's commentary. By analyzing the place of scriptural exegesis in the entire *sugya*, I will accomplish two interrelated goals: 1. identification of the *sugya*'s Palestinian element; 2. utilization of the Babylonian discussion as an instrument for interpreting the Palestinian tradition. That is, although Jerome obviously did not rely on the Bavli, the Bavli as an interpreter of the Palestinian pericope can shed light on the interpretive context in which Jerome received the Palestinian tradition.[82]

Although it is not necessarily a given to read a section from Talmud as a connected literary unit, the highly structured nature of the *sugya* under discussion justifies reading it as one.[83] The quotations from Ecclesiastes appear in discussions of two mishnaic passages. The first mishnaic passage consists of a general statement that all the needs of a corpse may be performed on Shabbat, with specific references to anointing, washing and preserving the body. Without addressing each element of the Mishnah, the Gemara concentrates on washing and anointing and the meaning of "all" needs of the dead. It is in this second section that the Gemara brings a tannaitic teaching from the Tosefta that introduces Eccl 12:6 into the discussion:

> One may put cooling vessels and metal vessels on the corpse's stomach and one may plug his orifices, and concerning him Solomon said, "before [the silver cord] snaps."[84]

In the process of introducing the section from the Tosefta, *b.Šabb.* 151b explains the typically cryptic use of biblical citation in the Tosefta. For the Tosefta does not clarify how the verse from Ecclesiastes, "until the silver cord snaps" relates to putting cold metal on a corpse's stomach and stopping up his/her orifices. The talmudic *sugya* not only explains how cold metal and blocking the orifices prevent the body from swelling, but it also quotes the verse from Ecclesiastes in full, identifying the body part corresponding to each section of the biblical verse:

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reading of 12:7, and this verse appears out of order in the talmudic pericope (see below, p. 27). Since the latest sage cited is a fifth-generation Babylonian Amora, the pericope was fixed sometime by the end of the fourth century.

82 On the role of literary analysis of the Bavli in recovering Palestinian traditions, see Richard Kalmin, *Sages, Stories, Authors, and Editors in Rabbinic Babylonia* (Atlanta: Scholar Press, 1994) 1–15; *The Sage in Jewish Society of Late Antiquity* (New York: Routledge, 1999); and Christine Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* (Oxford: Oxford Univ. Press, 1997) 1–23.

83 See Hayes, *Between*, 22, and the literature cited there on the sophisticated literary construction of the Talmud.

84 *T.Šabb.* 18:11. Translation mine. The talmudic version of the tannaitic passage is virtually identical.

> And [thus] said Solomon too in his wisdom: *Or ever the silver cord be snapped asunder* – this refers to the spinal cord; *and the golden bowl be broken* – this alludes to the membrum; *and the pitcher be broken at the fountain* – that means the stomach; *and the wheel broken at the cistern* – this refers to the excrements.[85]

Although the parallel passages in QR and LevR markedly differ from the Talmud here in several details, all three exegeses read "the silver cord" as the spinal cord and "the jar" as the stomach, all three cite Malachi 2:3, and all three refer to the stomach as collapsing and then actually speaking. Therefore, it is clear that all three texts are drawing from a single tradition on Eccl 12:6. What merits emphasis here is that in QR and LevR, the interpretation appears according to the order of the verses, whereas in the Talmud, the exegesis of 12:6 appears as a distinct pericope before the exegesis of 12:1–5. It is certain that the isolation of 12:6 derives from the Tosefta, but this isolation also provides an explanation for Jerome's metaphorical interpretation of the verse instead of the allegorical version of Jewish tradition. Just as 12:1–5 appears as a separate unit in *b.Šabb.*, Jerome also encountered only these verses in Jewish tradition.

In fact, from a literary point of view, Eccl 12:1–5 functions much differently in the talmudic context than does Eccl 12:6. If we were to identify a theme of the *sugya* containing 12:6, it would be something like "the decay of the stomach of corpses." The theme emerges from the Mishnah / Tosefta, and the verse from Ecclesiastes serves as a prooftext that in fact the stomach is liable to decay. In the case of the pericope containing 12:1–5, instead of the theme being "hastening death by closing the eyes," the theme has in fact become the exegesis of Eccl 12:1–5 itself.

It would be too time-consuming here to outline the entire talmudic passage, but to demonstrate my point, it is necessary to summarize in cursory fashion the talmudic argument in order to explain how and why Ecclesiastes appears in the second *sugya*. The Talmud begins by discussing the Mishnah connected to closing the eyes of a person near death and follows closely the discussion in the Tosefta. According to the Tosefta, one can profane the Sabbath for a day-old baby, but not for dead King David, because the baby will observe Sabbaths in the future but a dead person is exempt from and unable to perform mitzvot. After a related discussion derived from the Tosefta on why animals fear living beings but not corpses, the Talmud returns to the relationship between death and mitzvot with a cryptic *baraita* from the fourth-generation tannaitic sage R. Shimon b. Elazar that is explained by Eccl 12:1:

עשה עד שאתה מוצא ומצוי לך ועודך בידך, ואף שלמה אמר בחכמתו

85 *B.Šabb.* 151b.

In light of the quotation from Ecclesiastes, Rashi grasps the sense of the *baraita* as follows (Rashi's explanations are included in parentheses): "Perform (righteousness and charity) whilst thou canst find (an object for thy charity), hast the opportunity (wealth), and it is yet in thy power (before you die), and also Solomon said in his wisdom...."[86]

Precisely at this point, the talmudic *sugya* moves from the halakhic tradition to the aggadic tradition, for the discussion becomes focused on verses 12:1–5 of Ecclesiastes. Both the technical terminology as well as the themes of the pericope demonstrate the rhetorical shift that has taken place. Henceforth, the verses from Ecclesiastes are simply cited without any introductory formula, similar to the word-by-word commentary of exegetical midrash.[87] Each verse is stated with corresponding allegorical explanation and then followed by a typical concatenation of talmudic pericopes. The one exception, 12:7, in fact proves the rule. Eccl 12:7 is introduced three times, once by תנו רבנן and twice by דכתיב. But the verses appear out of order (between 12:5c and 12:5d) and the explanations of the verse happen to be one of the few instances in which QR and LevR have parallels. Thus, it is more likely that the exegesis of 12:7 represents a fixed tradition that was (understandably) inserted into the discussion. At any rate, the absence of specific formulae before verses 12:2–12:5 creates the literary image of lemmata followed by commentary.

The content of the talmudic discussion provides further evidence that the verses from Ecclesiastes provide the guiding principles to the section. A schematic summary of the Talmud's argument illustrates this point. After explaining that 12:1 exhorts one to remember the Creator in one's youth before old age and the Messianic era arrive, the Talmud provides a couple of anecdotes and principles demonstrating that one should be kind to the poor because one day the situation may be reversed. Such anecdotes support Rashi's reading of R.Shimon b. Elazar's *baraita* and provide an unsurprisingly pious reading of Ecclesiastes. Namely, "remember your Creator in your youth" must mean "do good deeds now" before old age comes (when you can no longer do good deeds).

The discussion now has nothing to do with the original mishnah, but exclusively depends on Ecclesiastes. Following the quotation from Eccl 12:2, the Talmud discusses weeping in connection with the failing eyesight of the elderly, and appropriate and inappropriate occasions for weeping. The pretext for such a discussion derives from the image in Ecclesiastes of "clouds following after the rain," which refers to the dimness of the eyes after weeping. Again, the Talmud returns to Ecclesiastes and provides an allegorical explanation for 12:3 that serves as the basis for the subsequent discussion:

86 I have for the most part followed the Soncino translation here that incorporates Rashi parenthetically and in footnotes.

87 See Strack-Stemberger, *Introduction*, 261.

> *In the day when the keeper of the house shall tremble* – these are the flanks [sides] and the ribs; *and the strong men shall bow themselves* – the legs; *and the grinders cease* – the teeth; *and those that look out of the windows darkened* – the eyes.[88]

The Talmud continues with aggadot on how the physical deterioration in old age affects travel, a brief praise of youth in contrast to old age, and a discussion of the difficulty of eating food, which is introduced by a wonderful transitional *sententia*. The initial aggadot, by referring to difficulties in traveling, build on the interpretation of "guardians of the house" and "men of strength" as parts of the leg. Next, the *sententia* of R.Meir, "Chew well with your teeth and you will find it in the legs," is followed by the explanation that drinking is easier than eating after the age of forty. R.Meir's saying applies in the negative to the situation of the elderly. Because they lack teeth, they cannot have strength in their legs, which prevents them from going places. The amusing anecdote that follows concerning R.Korḥah and the eunuch has only tangential connection to the discussion, but that connection is in fact a reference to the failure of eunuchs to reach old age (or have a beard). Then the Talmud returns to the inability of old people to travel and the quotation/explanation of Eccl 12:4.

Reminiscent of the Latin and Greek tradition of providing exempla, the Talmud continues with the exemplum of Barzillai for the negative effects of old age, in contrast to the elderly handmaid of Rabbi who could even taste the pot. These exempla point as well to the intellectual effects associated with old age and are supported by a *baraita* of R.Yishmael in the name of R.Yosi: Wisdom increases for the wise in old age, folly increases for the fool. At this point, Eccl 12:5 appears, followed by an aggadah concerning Rav Kahana and Rav. When Rav Kahana read this verse to Rav, Rav groaned because he had lost his sexual desire. After a brief, but cruel description of womankind, "but man sets out for his eternal abode" (Eccl 12:5) is explained. As in QR and LevR, the verse refers to the hierarchical positioning of righteous people after they die. The Talmud makes the point through a parable and a quotation from R.Yitzhak. Speaking of R.Yitzhak, the Talmud quotes him two times in a manner germane to the subject at hand. One quotation interprets Eccl 11:10 as demonstrating that the deeds of one's youth darken the days of old age while the other citation discusses the worm that eats the flesh of a corpse. This quotation leads to a discussion of mourning customs and the timetable for the decay of flesh.

While such a discussion may seem to bring us back to the original mishnah, the connection is much closer to Ecclesiastes, for it is at this point that the Talmud brings in an analysis of Eccl 12:7, "and the dust returns to the ground

88 *B.Šabb.* 152a.

as it was, and the lifebreath returns to God who bestowed it." Moreover, the discussion centers on the rewards of the righteous after death which focus continues to advocate the performance of pious deeds in one's youth. Even the bizarre anecdote about the corpse of R.Achai b. Josiah rebuking the diggers of R.Nahman serves to prove that yet another reward of the righteous is that their flesh does not decay. Finally, as the discussion moves to funeral eulogies, the last part of Eccl 12:5, "the mourners will go around in the street," appropriately alludes to funeral customs. After quoting 12:5d and a brief dispute between Judeans and Galileans on the arrangement of the funeral procession, the *sugya* concludes with an explanation of R.Eliezer's exhortation to repent one day before death. The Talmud clarifies the phrase through Eccl 9:8, which in turn is explained by a parable, namely, one should always be righteous since death and the judgment associated with death could happen at any time.

This point does bring us back to the Tosefta, which stated that a dead person is exempt from the performance of mitzvot. The Talmud, through an exegesis of Ecclesiastes, makes explicit what the Tosefta implies: in order to reap the rewards of mitzvot, one must perform them while it is physically possible. Since every element of the talmudic *sugya* relates to this theme and since the verses of Eccl 12:1–5 provide a formal connection to the meanderings of the discussion, I submit that *b.Šabb.*151b–53a represents a carefully crafted literary unit. Indeed even the anecdote about R.Korḥah and the eunuch, which has little to do with old age, concludes that a eunuch is physically incapable of actualizing mitzvot.[89] To be sure, it is not surprising that a talmudic discussion strays from its mishnaic pretext. What has happened here is that Ecclesiastes has replaced the Mishnah as the focal point for discussion. From a technical point of view, this proves that the discussion of Eccl 12:1–5 formed a complete literary unit. Although the precise form and development of that unit cannot be fully described from the available evidence, Jerome's reading helps by providing a late fourth-century incarnation of the exegetical pericope.

More than specific exegetical details, Jerome has also adapted the thematic underpinnings of those details so artistically illustrated in the talmudic *sugya*. Thus, the purpose of explicating the talmudic *sugya* in isolation is to demonstrate that, by itself and as a whole, the interpretation of Eccl 12:1–5 was a sophisticated

89 "'O eunuch, O eunuch,' he retorted, 'you have enumerated three things to me, [and now] you will hear three things: the glory of a face is its beard; the rejoicing of one's heart is a wife; *the heritage of the Lord is children* (Ps 127:3); blessed be the Omnipresent Who has denied you all these!'" Mitzvot are not specifically mentioned here. However, it is clear that the eunuch is physically incapable of performing desirable activities. Given the verbal sophistication of the entire pericope, we can conclude that the reference to wife and children is intentionally double-edged. Not only does the eunuch fail to enjoy the pleasure of sex and the benefit of continuity through children, he cannot perform the mitzvot associated with a wife and children, i.e., "Be fruitful and multiply."

literary unit that developed and articulated themes. I contend that Jerome drew on the thematic basis as well as specific details. In other words, Jerome is influenced by both rabbinic exegesis and rabbinic hermeneutic.[90]

I have often referred to several elements that point to Jerome's unified reading of Eccl 12:1–7. For instance, Jerome makes two characteristic comments on 12:6–8 that indicate his unified conception of the passage: "It reverts to the previous things and after a long hyperbaton . . . it now concludes the initial idea with a similar end," and "After the depiction of human death, it repeats the fine beginning ['vanity of vanities']."[91] The rhetorical term *hyperbaton* reflects Jerome's consciousness of the continuous nature of the lemma.[92] The continuity of the lemma in turn emphasizes an essential idea (*sententia*), since, according to Jerome, two sentences complete the phrase "Remember the Creator in your youth": 1. before old age comes and 2. before death comes. This is exactly the point made by *b.Šabb.* But the unity extends even further. By connecting 12:8 to 12:1–7 as well as the beginning of the whole book, Jerome characterizes the exegesis of 12:1–7 as a summary of the major point of Ecclesiastes.

His concluding statement on 12:6–8 deserves particular attention: "Since all mortal toil, which this whole volume discusses, reaches this — that dust returns to the earth and the soul returns to the place from whence it was taken — it is of great vanity both to toil in this world and not to seek future benefits."[93] At first glance Jerome contradicts the Talmud with the claim that it is worthless to toil in this world. However, this is precisely the point of the parable at the end of the talmudic *sugya*:

> And Solomon too said in his wisdom, *Let thy garments be always white; and let not thy head lack ointment* (Eccl 9:8). R. Johanan b. Zakkai said: This may be compared to a king who summoned his servants to a banquet without appointing a time. The wise ones adorned themselves and sat at the door of the palace, ["for,"] said they, "is anything lacking in a royal palace?" *The fools went about their work, saying, "Can there be a banquet without preparations?"* Suddenly, the king desired [the presence of] his servants: the wise entered adorned, while the fools entered soiled. The king rejoiced at the wise but was angry with the fools. "Those who adorned themselves

90 On the distinction between exegesis and hermeneutic, see Daniel Patte, *Early Jewish Hermeneutic in Palestine* (Missoula, Mont.: Scholars Press, 1975) 1–5.

91 *Revertitur ad superiora, et post grande hyperbaton . . . nunc coeptam sententiam simili fine concludit,* and *Post descriptionem interitus humani, pulchre exordium, libri sui repetens.*

92 Cf. Jay, *L'exégèse*, 76–83.

93 *Cum enim cunctus mortalium labor, de quo in toto volumine disputatum est, huc perveniat, ut revertatur pulvis in terram suam et anima illuc redeat, unde sumpta est, magnae vanitatis est in hoc saeculo laborare et nihil profutura conquirere.*

for the banquet," ordered he, "let them sit, eat and drink. But those who did not adorn themselves for the banquet, let them stand and watch."[94]

I am not claiming that Jerome copied this parable or even paraphrased it.[95] Rather, the evidence indicates that Jerome adapted a fixed oral tradition that includes specific details as well as broader themes.

The Classical Tradition

If we stopped our discussion now, we would leave the incorrect impression that Jerome simply derives his reading of Eccl 12:1–7 primarily from Jewish sources. Such a conclusion would fail to consider the role of Classical tradition in Jerome's analysis. The Classical tradition may not be neglected because Jerome constantly demonstrates his rootedness in the Classical Latin literature.[96] Therefore, the question always must be considered whether Jerome's analysis relates to the Classical Latin tradition.[97] Indeed, we might expect Classical references since he introduces the pericope on Eccl 12:1–7 with a Classical metaphor and claims that Eccl 11:10 responds to Epicureanism. Nevertheless, despite the fact that the *Commentary on Ecclesiastes* has its fair share of references to Classical Latin authors, no such references appear in the analysis of verses 12:1–7. However, elsewhere in his corpus, Jerome demonstrates awareness of Classical Latin traditions on old age.[98] He even quotes from Cicero's *De Senectute* five times.[99] The citation of *De Senectute* in *Ep.*52.3 deserves particular attention not only because of the length of the quote, but also because Jerome integrates the

94 *B.Šabb.* 153a. Emphasis added.

95 The *mashal* is quite similar to Luke 14:15–24 and certainly would have appealed to Jerome. I am grateful to Oded Irshai for pointing out the parallel.

96 See Harald Hagendahl, *Latin Fathers and the Classics: A Study on the Apologists, Jerome, and Other Christian Writers* (Goteburg: Elanders boktr. aktiebolag, 1958) 91–381.

97 The term, "Classical Latin," tradition is intentional. In the case of Jerome, we can speak of specific references to Latin authors, but because he knew Latin literature so well, his Classical learning also must be understood as a whole web of knowledge manifested in impressionistic ways. For example, in the case of old age, I do not believe that Jerome distinguishes between the various Greek and Roman schools of thought, but rather has a mosaic of impressions derived from various genres of literature. Therefore, it is reasonable to speak of a Classical tradition in the case of Jerome, keeping in mind that we cannot always define the precise texts that formed Jerome's intellectual universe. See Pierre Courcelle, *Late Latin Writers and Their Greek Sources*, trans. Harry Wedeck (Cambridge, Mass.: Harvard Univ. Press, 1969) 48–89. Although Courcelle demonstrates that Jerome derives most of his knowledge of Classical Greek literature through Latin and Patristic sources, he did have direct knowledge of the Greek medical tradition through his reading of Galen (pp. 86–87).

98 See Hagendahl, *Latin Fathers*, 91–381.

99 Cf. Aemilius Luebeck, *Hieronymus quos noverit sciptores et ex quibus hauserit* (Lipsiae: Typis B.G. Teubneri, 1872) 147–148, and Hagendahl, *Latin Fathers*, 192–93, 239, 253, 265, 289, 353.

Ciceronian passage into a longer discussion on the disadvantages and advantages of old age. Moreover, the discussion depends on chiastic references to classical and biblical literature: a concatenation of Virgilian passages in 52:1 demonstrate the chilling effects of old age on intellectual acuity;[100] an allegorical interpretation of David and Abishag follows, proving that wisdom increases with old age; Jerome confirms this idea with exempla drawn from Cicero;[101] further proof is offered from an etymological analysis of the name of Abishag the Shunamite that underscores the Christological basis of true wisdom.[102]

Simply because Jerome connects Classical and biblical traditions to old age in his letters, he need not have these traditions in mind when commenting on Ecclesiastes. However, verbal allusion to Classical motifs make the evidence of the letters much more compelling. For Jerome brings the Classical medical understanding of old age to bear on the old-age allegory. The reason why elderly people awake easily is because of the disequilibrium of the bodily elements which includes chilled blood:

> Moreover, that *he rises at the voice of the bird* shows that with the blood already chilling and with the wetness dried, by which substances sleep is nourished, he wakes up at a light sound and when the cock crows in the middle of the night, he awakens quickly; by no means very often can he stir his limbs from the bed (*Comm. Eccl.* 12:4).[103]

The physical effects stemming from the frigidity of old age expressed in Ep. 52:1 appear again in connection with the disintegrating caper bush of 12:5: "Lust

100 *nunc jam cano capite et arata fronte* (Aen. 7.417), *ad instar boum pendentibus a mento palearibus* (Georg. 3.53) *frigidus obsistit circum praecordia sanguis* (Georg. 2.484). *Unde et in alio loco idem poeta canit: omnia fert aetas, animum quoque* (Ecl. 9.51), *et post modicum: nunc oblita mihi tot carmina vox quoque Moerim iam fugit* (Ecl. 9.53–54). ("To-day, however, my hair is grey, my forehead furrowed [Aen. 7.417] and dewlaps, like those of an ox, hang from my chin [Georg. 3.53]. As the poet says: 'The cold blood round my heart now hinders me' [Georg. 2.484] and in another passage: 'Age carries all things, e'en the mind, away' [Ecl. 9.51], and a little later: 'Those songs are all forgotten, and his voice has left poor Moeris' [Ecl. 9.53–54]"), Jerome, *Ep.* 52.1 (Wright, LCL). Addressed to Nepotian, the nephew of Heliodorus, the letter is dated to 394 C.E.

101 E.g., Plato, Isocrates, Pythagoras, Democritus, Xenocrates, Zeno, Cleanthes, Homer, Hesiod, Sophocles and Cato.

102 Jerome discusses three aspects of the name. אבישג could mean "my father is abundant" or "the roar of my father." Virtue is greater in the elderly because wisdom is more abundant, or the thunder of the divine word lingers quite fully in old people. "Somanitis" (Shunamite) refers to scarlet which alludes to the heat of wisdom as well as the blood of Christ and the wisdom gleaned from the reading of divine scriptures.

103 *Porro consurgere eum ad vocem volucris, ostendit, quod frigescente iam sanguine et humore siccato, quibus materiis sopor alitur, ad levem sonitum evigilet, noctisque medio, cum gallus cecinerit, festinus exsurgat; nequaquam valens strato saepius membra convertere.*

chills. . . . because the lust of old men chills, and the sexual organs disintegrate" (*Comm. Eccl.* 12:5).[104] Since both the light sleep and loss of sexual appetite associated with old age appear in the talmudic *sugya,* Jerome is best described as translating elements of a talmudic passage into Classical medical language. Even the allegorical notion that the home represents the body has a Classical parallel in Seneca.[105] On a more general level, the contrast of youth and old age is a commonplace of Classical tradition.[106] Finally, the connection of the woes of old age with leading a virtuous life parallels Juvenal's *Satire*, 10. Here Juvenal castigates the various wrong-headed desires of humankind including those who desire a long life. What, claims Juvenal, should human beings seek?

> If you ask my counsel, you will leave it to the gods themselves to provide what is good for us, and what will be serviceable for our state; for, in place of what is pleasing, they will give us what is best. Man is dearer to them than he is to himself. . . . You should pray for a sound mind in a sound body; for a stout heart that has no fear of death, and *deems length of days the least of Nature's gifts*; that can endure any kind of toil; that knows neither wrath nor desire, and thinks that the woes and hard labours of Hercules are better than the loves and the banquets and the down cushions of Sardanapalus. What I commend to you, you can give to yourself; for it is assuredly through virtue that lies the one and only road to a life of peace. Thou wouldst have no divinity, O Fortune, if we had but wisdom; it is we that make a goddess of thee, and place thee in the skies (Juv. *Sat.* 10.346–51; 357–67).[107]

104 *libido refrixerit . . . quod senum libido refrigescat, et organa coitus dissipentur.* See Christian Gnilka, "Greisenalter," *RAC* 12 (1950) 1031–32 and G. Minois, *Histoire de la vieillesse en occident de l'antiquité à la renaissance* (Paris: Fayard, 1987) 107–108. While the application of the theory of humors to old age stems from the Hippocratic corpus, Galen provides a more plausible source for Jerome since Galen had developed the theory and was quite popular in the fourth century. Servius on Georg. 2.484, *frigidus etc. secundum physicos, qui dicunt stultos esse homines frigidioris sanguinis, prudentes calidi, unde et senes, in quibus iam friget, et pueri in quibus necdum calet, minus sapiunt* ("cold etc., according to the natural philosophers, who say that people of cold blood are fools, those of hot blood are wise, whence also old men, in whom [the blood] is already cold and boys, in whom [the blood] is not yet hot, are not at all intelligent"), demonstrates that the notion of cold old age was common knowledge.

105 Cf. Seneca the Younger, *Ep.* 12:1: "Wherever I turn, I see evidences of my advancing years. I visited lately my country-place, and protested against the money which was spent on the tumble-down building. My bailiff maintained that the flaws were not due to his own carelessness; 'he was doing everything possible, but the house was old'. . . . What has the future in store for me, if the stones of my own age are already crumbling?" (Gummere, LCL) 65–67.

106 Cf. Gnilka, "Greisenalter," passim.

107 Ramsay, LCL. Emphasis added. Earlier in the satire (lines 188–288), Juvenal includes a lengthy and detailed critique of old age.

Although the references to many gods, the apostrophe to Fortuna, and the Stoic notion of accepting what the gods give strikingly differentiates Juvenal from Jerome, the passage also shares much in common with Ecclesiastes and Jerome's interpretation. Jerome likewise values *mens sana in corpore sano*; both Ecclesiastes and Juvenal allude to the endurance of *labores* and the avoidance of anger, and of course both offer a critique of old age. Such parallel details demand serious attention because they appear in a similar context: Jerome and Juvenal combine a castigation of old age with an exhortation to virtue, despite their having disparate notions of virtue. Juvenal indicates the value of conquering desire and overcoming old age. According to Cicero, *de Senectute* 7, one must distinguish between the effects of old age and old age itself. If old age causes disease or lack of desire, then the problem or benefit does not derive from old age, but rather disease or lack of desire, both of which are possible in youth.[108] This is what Juvenal means by the line, "What I commend to you, you can give to yourself; for it is assuredly through virtue that lies the one and only road to a life of peace." That is, virtue benefits both old age and youth. Jerome configures motifs similar to Juvenal in his comment on the last verse of Ecclesiastes:

> Because fear is characteristic of slaves, and the perfect love says farewell to fear; and in divine scripture, the fear of the beginners and that of the perfected has a double sense. Now concerning the fear perfected in virtue, I think that it has been said, "Nothing is lacking to those who fear Him" (Ps 33:10). Or at least because [the perfected] is still human and has not received the name of God, [the perfected] has this reason for a material existence, namely, to be placed into a body and fear the Lord. For God brings every deed, that is, every person into judgement concerning all things which they understood contrary to God's intention whether this way or that way. And so "farewell to those who call evil good, and good evil" (Isa 5:20).[109]

Jerome, however, combines the themes of fear, divinity, and virtue differently than Juvenal. Juvenal argues that one should be virtuous because Fortune rules human affairs and one should not fear death because such fear can detract from a virtuous life. Jerome in a way responds by distinguishing between the fear of the

108 Cicero is following Plato's *Republic* here. See J.G.F. Powell, ed., *Cato Maior De Senectute* (Cambridge: Cambridge Univ. Press, 1988) a.l., for references and discussion.

109 *Comm. Eccl.* 12:13–14. Quia timor servorum est, et perfecta dilectio foras mittit timorem; et in scriptura divina tam incipientium, quam perfectorum duplex appellatur metus. Nunc de consummato in virtutibus metu dici puto, secundum illud: *Nihil deest timentibus eum* (Ps. 33:10). Vel certe, quia adhuc homo est, et necdum Dei nomen accepit, hanc habet rationem substantiae suae, ut in corpore positus Deum timeat. Quia omne factum, id est omnes homines adducat Deus in iudicium super universis, quae aliter quam ab eo disposita sunt et dicta, senserunt, sive in hance partem, sive in illam. *Vae* quippe *his qui dicunt malum bonum et bonum malum* (Is. 5:20).

beginners and the fear of the perfect. For the perfect lead a virtuous life by fearing God and the day of judgement. God, not Fortuna, is enthroned in Jerome's world. And yet Jerome's final quotation from Isaiah could apply equally to Juvenal as to Jerome. Both castigate human beings who completely reverse notions of good and evil. Seen in connection with this Classical tradition on old age, Jerome's preference for the rabbinic tradition becomes more deliberate.

Not only does Jerome fit the discussion of old age into popular philosophical notions of virtue, but he also deeply responds to the Epicurean reading of old age. The locus classicus for Epicureanism on old age appears in Lucretius, *De Rerum Natura*, 3.445–58, where Lucretius argues that just as the body becomes old, so too does the soul. I have not been able to determine to whom Jerome is referring when he castigates those who claim that souls are generated by the corporeal, not the divine, parent.[110] However, the notion may very well be Epicurean since the parent could be seen as the one who "organizes" the atoms that make up the soul just as he organizes the atoms that make up the body. At any rate, the Commentary emphasizes the return of the soul to its divine source,[111] which clearly refutes the Epicurean (among other) notions. Although Epicureanism often was reduced to simple hedonism, Jerome makes Solomon's response to Epicureanism more sophisticated. This rejection of the Epicurean concept of the soul explains Jerome's critique of Symmachus — the rendition "*dissolvetur spiritus fortitudo*" could be read as "the power of the soul will be dissipated," which parallels Epicurean notions of the soul's disintegration into atoms. For in describing the disintegration of the soul, Lucretius specifically uses this term: *ergo dissolui quoque convenit omnem animai naturam, ceu fumus, in altas aëris auras* (*De Rerum Natura*, 3.455–56).[112] Lactantius picks up the same idea in his lengthy critique of Epicurus in book VII of the *Institutiones*.[113] It is very likely that Jerome is influenced by Lactantius. However, it is irrelevant to my argument from whence Jerome encountered his Classical traditions. Lactantius does not cite Ecclesiastes, so Jerome should be more accurately described as expounding Lactantius' critique of Epicurus from the old-age allegory in Ecclesiastes.

This mediation of classical traditions through Lactantius points to another classical motif that brings a unified vision to the various Christian and Jewish exegetical traditions presented by Jerome. There are classical traditions that compare the decline of the world to the decline of the body as well as the decline

110 *Comm. Eccl.* 12:6–8.

111 "The soul . . . which returns there from whence it came down . . . the river of the soul will return to the source, etc." (*Comm. Eccl.* 12:6–8)

112 "It follows therefore that the whole nature of the spirit is dissolved abroad, like smoke, into the high winds of the air." See also OLD, "dissolvo" 1.a.

113 "Therefore the opinion of Democritus, Epicurus, and Dicaearchus about the dissolution of the soul is wrong" (*falsa est ergo Democriti et Epicuri et Dicaearchi de animae dissolutione sententia* [*Div. Inst.* VII.13.7]).

of empires to the decline of body.[114] Just as the body grows old, so too does the world and so too do empires. Cyprian applies this latter notion to defend Christians against the pagan accusation that their failure to cultivate traditional Roman gods caused contemporary political instability.[115] Cyprian counters that, like bodies, all empires grow and decline and that the world is simply experiencing the effects of old age.[116] Thus, the vivid description of the physical decline of old age highlights the impending end of the world. Similarly, the Church, according to Jerome's allegorical reading of Eccl 12:1–7, like any political entity, may experience natural decline, so that it, too, must take preventative measures in its youth. Finally, Jerome's lengthy paraphrase of the decline of the Jewish commonwealth is reinforced by the Jewish physical allegory. Just as the body declines, so too did the Jewish polity. In a word, Jerome presents Jews as the followers of the physically old and dead testament. While the ultimate reading of Ecclesiastes is not particularly insightful — namely, be virtuous now while you have the chance — the literary artistry of Jerome highlights, strengthens, and enriches this message. He really has painted a picture.

One could argue that the similarities between the Classical tradition and Jerome derive from the stock of ideas common to the Latin-speaking world. But such a claim fails to take seriously Jerome's tremendous knowledge of Latin literature coupled with his impressionistic application of this knowledge. It is more reasonable to suggest that Jerome, whose opinions concerning old age

114 The locus classicus for the world becoming old is found in Lucretius, *De Rerum Natura*, 2.1144–74. The idea that states grow old appears in Sallust, *Jugurtha* 2.3: *Omnia orta occidunt et aucta senescunt* "They all rise and fall, wax and wane" (Rolfe, LCL); Lactantius, *The Divine Instititutes*, 7.14: *Non inscite Seneca Romanae urbis tempora distribuit in aetates: Primam enim dixit infantiam sub rege Romulo fuisse, a quo et genita et quasi educata sit Roma; . . . Amissa enim libertate . . . ita consenuit, tamquam sustentare se ipsa non valeret, nisi adminiculo regentium niteretur . . .* [Lactantius himself adds] *quid restat nisi ut sequatur interitus senectutem,* "Not unsoundly did Seneca distribute the times of the Roman city into ages: 'The first was infancy, under King Romulus, by whom Rome was begotten, and brought up, as it were . . . . For when liberty was lost, . . . she grew so old that she was, as it were, not able to support herself without leaning upon the prop of those ruling' . . . [Lactantius himself adds] What remains except for death to follow old age?" (Lactantius, *The Divine Instititutes*, 7.14 [*FC* 49:513–514]); and Ammianus 14.6.4: *Eius populus . . . in juvenem erectus et virum, ex omni plaga, quam orbis ambit immensus, reportavit laureas et triumphos; iamque vergens in senium et nomine solo aliquotiens vincens, ad tranquilliora vitae discessit,* "Her people . . . grown to youth and manhood, from every region which the vast globe includes, brought back laurels and triumphs. And now, declining into old age, and often owing victory to its name alone, it has come to a quieter period of life" (Rolfe, LCL). See Reinhard Häussler, "Vom Ursprung und Wandel des Lebensalter vergleichs," *Hermes* 92 (1964) 313–41.

115 *Ad Dem.* 2–4.

116 Unlike the case of Lactantius and Ammianus (cited above), Cyprian speaks generally about the decline of the world without specific reference to Rome. However, Cyprian clearly has Rome in mind when he describes the decline of the world, as noted by Géza Alföldy, "Der Heilige Cyprian und die Krise des römischen Reiches," *Historia* 22 (1973) 488.

were already formed by authors like Cicero, Seneca and Juvenal, preferred the reading of *b.Šabb.* because it correlated with his own way of thinking. Because of Jerome's Classical background, his preference for the Jewish tradition in *b.Šabb.* must be seen as a form of adherence to the Aristotelian school that ultimately condemns the onslaught of old age. The Jewish tradition in *b.Šabb.* supports this position, and helps explain why Jerome also adopts this position, namely, serve God while you are still physically capable. The Jewish tradition on the destruction of Jerusalem preserved in QR not only provides an historical exemplum for the necessity of early virtue; in combination with the tradition in *b.Šabb.* it provides a totalizing framework for Jerome's commentary on these verses. This framework, that all empires age and die like bodies, is inscribed from the classical tradition. But one empire, the divine commonwealth, will not grow old and die. Herein lies the ultimate significance of the refutation of Epicurean notions of the soul. Just as the soul, which is unlike the body, does not dissipate but returns to the divine, so, too, is the divine commonwealth not subject to decay like the human commonwealth. The *Commentary on Ecclesiastes* transcends the simple juxtaposition of sources. A full appreciation of Jerome's scriptural exegesis opens up rich possibilities for reading and understanding his work.

Appendix 1

The Historical Paraphrase of Ecclesiastes 12:1–7 in *Ecclesiates Rabbah* and Jerome's *Commentary on Ecclesiastes*

*Ecclesiates Rabbah**	Jerome
Introduction: "R. Joshua b. Levi interpreted the text in connection with the Sanctuary"	"The Hebrews suppose that the command applies to Israel to whom it is commanded to enjoy their resources before the time of captivity comes and they exchange youth for old age"
12:1 *Remember your Creator in the days of your youth*	
"Remember who created you while His election of you still endures" followed by list of reasons for chosenness based on the root for "choose" (covenant of priesthood, covenant of Jerusalem / house of David / Temple / people of Israel)	Rejoice therefore in your youth, O Israel, and do these things previously mentioned**
days of sorrow	
days of exile	days of Babylonian and Roman captivity
"I have no pleasure in them"	
ancestral merit has ceased	no will***
12:2 *the sun grows dark*	
house of David	honor
the light	
Torah	glory
the moon	
Sanhedrin	judges
the stars	
disciples of the Sages	holy men

* A. Cohen, trans., *Midrash Rabbah: Ecclesiastes* (London: Soncino Press, 1939).

** Before the longer paraphrase, Jerome observes, "Whatever appears desirable and pleasant to the heart as well as eyes, one should enjoy while it is at hand, nevertheless in such a way that one knows that he will be judged concerning everything; and one should flee evil thoughts as well as lust, well aware that folly is inherent in youth, and one should always remember his Creator before the days of Babylonian and Roman captivity come during which one cannot have one's will."

*** The rendition appears in a pericope before the extended paraphrase.

	Ecclesiates Rabbah	Jerome
	the clouds come back again after the rain	
	all the hard blows which Jeremiah prophesied for them befell them only after the destruction of the Temple	Nebuchadnezzar, or Titus, summoned by the prophets
12:3	***When [on the day of]***	
		"On that day" [eschatological valence]
	guards of the house	
	the watches of the priests and Levites	guardian angels of the Temple
	men of valor	
	priests (digression on Aaron consecrating Levites)	the most powerful in your army
	the maids that grind	
	great collections of Mishnah	precepts of the teachers
	grown few	
	Talmud	prophets will become dark
	the ladies that peer through the windows	
	when Israel was exiled to Babylon, not one of them was able to expound his learning	who used to be able to receive the light of their visions
12:4	***the doors to the street***	
	doors of house of Nechusta bat Elnathan*	doors of the Temple
	the noise of the hand mill	
	they neglected words of Torah	Jerusalem is humbled
	and he rises to the song of the bird **	
	For 18 years a *bat kol* came to Nebuchadnezzar urging him to destroy Israel	The Chaldean [Nebuchadnezzar] comes, summoned by calls of Jeremiah
	strains of music dying down	
	[Nebuchadnezzar] . . . stopped the singing in the Temple	the choruses of those singing in the temple become silent

* Mother of King Yehoiakin who was exiled to Babylon (2 Kgs 24:5). Her house was open to all.
** Translation mine.

	Ecclesiates Rabbah	Jerome
12:5	*one is afraid of the heights*	
	[Nebuchadnezzar] was afraid of Him who is supreme in the universe, the Supreme King of kings	coming to Jerusalem, those enemies feared God's greatness
	there is terror on the road	
	quotes Rabbi Levi, but refers the phrase to Nebuchadnezzar who was afraid on the road; digression on Nebuchadnezzar using various forms of divination	[they] hesitated on the road feared the fate of Sennacherib
	the almond tree may blossom	
	prophecy of Jeremiah 1:11	staff of Jeremiah 1:11
	the grasshopper be burdened	
	image of Nebuchadnezzar / digression on how to erect the statue	Nebuchadnezzar and his army
	the caper bush	
	ancestral merit	the covenant (*amicitia*) of God with Israel
	eternal abode	
	from Babylon they came and there shall they return	the Man will go to his eternal home, and will return from the garrison of God to the heavens
	with mourners all around in the street	
	those exiled with Jeconiah (came to greet those exiled with Zedekiah)	they will go around the streets in tears hemmed in by the siege of the enemy
12:6	*silver cord*	
	genealogical chain	"Therefore, rejoice Israel, in your youth . . . while your glory is with you"
	golden bowl	
	words of Torah	ark of the covenant
	jar . . . at the spring	
	pitcher of Baruch or pitcher of Jeremiah	commands of the law are in the Holy of Holies

Ecclesiates Rabbah	Jerome
jug . . . at the cistern	
from Babylon they came and to Babylon they returned digression on various names of Babylon	you return into Babylon from whence you went out through the loins of Abraham
12:7 *and the dust returns to the ground*	
from Babylon they came and to Babylon they returned	you begin to waste away in Mesopotamia, from whence you set out
and the lifebreath returns to God Who bestowed it	
when the Holy Spirit departed	the whole favor of prophecy by which you had been inspired will return to its giver
12:8 *Utter futility*	
then vanity of vanities began	

Appendix 2

The Old Age Allegory on Ecclesiastes 12:1–7 in *Targum Onqelos, Ecclesiastes Rabbah, Leviticus Rabbah, B.Šabbat,* and Jerome

*Targum Onqelos**	*Ecclesiastes Rabbah*	*Leviticus Rabbah 18***	*B.Šabbat 151a–53a****	Jerome****
			introduces Qohelet "as Solomon said in his wisdom"	refers to time of captivity and old age
12:1 *Remember your Creator*				
Remember your Creator	R.Aqabiah b.Mahalalel, explained by R.Joshua b.Levi of Siknin, renders a threefold meaning of creator: from where you came (a pit, i.e., a malodorous secretion), where you are going (a well, i.e., worm and maggots, to whom you will give accounting in judgment (the Creator)	same except R.Abba b.Kahana in the name of R.Pappai, and R.Joshua of Siknin in name of R.Levi explained, and order is different (well, pit, Creator)		Always remember your creator and tread the path of youth in such a way that you remember the final death, before time comes in which
in the days of your youth				
days of your boyhood	while strong	same as QR		(and tread the path of youth)
days of sorrow				
evil days	days of old age	same as QR	same as QR	sad things follow†

"I have no pleasure in them"

	days of suffering or, according to R. Hiyya b. Nehemiah, the days of the Messiah when there is neither merit nor guilt	same as QR except not attributed to R. Hiyya	This refers to the Messianic era, wherein there is neither merit nor guilt.	

12:2 *the sun grows dark*

the bright splendor of your face which may be compared to the sun is changed	the bright countenance	same as QR	forehead	(from 12:3) sun, moon stars are the eyes, *nose*, ears and the senses of the whole head††

the light

light of your eyes becomes blind	the nose	the forehead	and nose	*nose*?

the moon

beauty of your cheeks	the forehead	the nose	soul	ears?

* P. Knobel, trans., "The Targum of Qohelet," 15:52–55.

** J. Israelstam, trans., *Midrash Rabbah: Leviticus* (London: Soncino Press, 1939).

*** H. Freedman, trans., *The Babylonian Talmud: Shabbath* (London: Soncino Press, 1938).

**** Italicized text is parallel to Midrash and Talmud, bold text is parallel only to Talmud.

† Note however, that before the historical paraphrase, and well before the line-by-line exegesis, Jerome renders the phrase, "before he exchanges youth with old age."

†† The text is problematic here. Although the Bible refers to four celestial phenomena, Jerome parallels three such phenomena to four parts of the head.

	Targum Onqelos	*Ecclesiastes Rabbah*	*Leviticus Rabbah 18*	*B.Šabbat 151a–53a*	Jerome
12:2	***the stars***				
	pupils of your eyes	the cheekbones	same as QR	cheeks	senses of the whole head
	the clouds come back again after the rain				
	your eyelids pour tears like clouds after rain	two explanations according to R.Levi: refers to scholars and fools	same as QR	light of man's eyes which is lost after weeping	
12:3	***When [on the day of]***				
	on the day				
	guards of the house				
	knees	ribs	legs	sides and ribs	house = body *ribs* because the intestines are hemmed in by them and the whole softness of the stomach is protected
	men of valor				
	arms	arms or ribs	ribs/or arms, according to R.Hiyya	legs	legs
	the maids that grind				
	teeth of your mouth become useless	stomach	same as QR	teeth	teeth are rubbed away or fall out in extreme old age; teeth soften food for stomach

grown few				
unable to chew food	teeth	same as QR		
the ladies that peer through the windows				
your eyes which look out of the opening of your head will become dim	eyes/lungs from whence voice comes out (R.Nehemiah)	same except lungs according to R.Hiyya	eyes story about Joshua b. Hananiah: old age (white hair, weak voice, bad teeth) prevented him from going to Be Avidan/or stooped over (seeking what I did not find) further digression on old age	*eyes*
12:4 ***the doors to the street***				
your foot will be impeded from going out in the street	orifices	same as QR except adds "which are like doors opening and closing"	orifices (preceded by aggadah on R.Simeon b.Halafta and Rabbi)*	**weak steps of old man because he always sits and never goes anywhere**
the noise of the hand mill				
your appetite	because the stomach ceases to grind	same as QR	stomach	teeth that cannot grind food; voice is thin because of difficulty with breathing

* Rabbi asked R.Simeon b.Halafta: 'Why were we not permitted to receive you on the Festival, as my ancestors used to receive your ancestors?' 'The rocks have grown tall, the near have become distant, two have turned into three, and the peacemaker of the home has ceased,' he replied.

	Targum Onqelos	*Ecclesiastes Rabbah*	*Leviticus Rabbah 18*	*B.Šabbat 151a–53a*	Jerome
12:4	***and he rises to the song of the bird****				
	you will awaken from your sleep by the sound of a bird as if it were the sound of thieves	when old man hears birds chirping, he assumes that bandits have come	same as QR	even bird wakes him up	awakes at light sound and in middle of the night awakes at cock's crow, cannot get up from bed
	strains of music dying down				
	your lips shall tremble so that they cannot not [sic] utter songs	the lips/R.Hiyya b.Nehemiah says kidneys which submit plans for the heart to decide	same as QR	voice of songs and poems sound to him like a whisper/ and thus Barzillai etc.	ears; hearing of old men is heavy and cannot distinguish between voices and do not enjoy songs, cf. Berzillai
12:5	***one is afraid of the heights***				
	you will be afraid to remember things which happened previously	when they call an old man to a place, he says to them 'Are there ups and downs [on the way to it]?'	same as QR	even a small knoll looks to him like the highest of mountains	*not strong enough to go on high places, with wearied knees and trembling step, even afraid of flat places*
	there is terror on the road				
	small heap will be like a high mountain when you walk on the way	R.Abba bar Kahana: fears the whole road. R.Levi: fears that he can only go part of the way	same as QR except no reference to R.Abba refusing to go anywhere	fears	

the almond tree may blossom				
the top of the spinal cord will protrude because of deterioration like the almond tree	R.Levi: nut of the spinal column; aggadah about the emperor Hadrian, Joshua b. Hananiah and the nut of the spinal column as the starting point for physical resurrection	no R.Levi; nut of the spinal column aggadah about the emperor Hadrian, Joshua b. Hananiah and the nut of the spinal column as the starting point for physical resurrection	coccyx	the hair whitens (Jerome's interpretation) others say that it is the sacred spine (sacrum) which increases when *rump* diminishes
the grasshopper be burdened				
ankles of the feet will be swollen	ankles	ankles	rump	the feet swell, ankles, or locust, followed by digression on Jeremiah and ambiguity of words
the caper bush				
and you will be prevented from sexual intercourse	sexual desire that brings peace between husband and wife	same as QR with aggadah on R.Simeon b.Halafta and Rabbi (similar to *b.Šabb.* on Eccl 12:4)**	the passions	*lust* becomes cold; love, desire, craving . . . lust becomes cold and disintegrate

* Translation mine.

** R.Simeon b. Halafta went to greet Rabbi every new moon. When he had grown old he was no longer able to go. Rabbi asked him etc. (see above n.127 for the rest of the aggadah).

	Targum Onqelos	*Ecclesiastes Rabbah*	*Leviticus Rabbah 18*	*B.Šabbat 151a–53a*	Jerome
12:5	***eternal abode***				
	grave	each person has an appropriate place after death	Same as QR except refers to righteous only	Same as LevR	death, tomb
	with mourners all around in the street				
	the angels who exact judgment go about like scribes in the streets	maggots	same as QR	dispute at end of *sugya* between Galileans and Judeans whether to mourn before or after the litter	when the funeral rites are properly celebrated, the crowd of mourners precedes the funeral
12:6	***silver cord***				
	your tongue becomes dumb so it cannot speak	the spinal cord	same as QR	same as QR (151a)	life; breathing given to us from the sky
	golden bowl				
	your skull is cracked	skull; according to R.Hiyya, it is the gullet	same as QR	penis (151a)	soul which returns from where it descended
	jar . . . at the spring				
	your gall in the liver	stomach which after three days comes to the mouth and says, "Here, take what you stole and gave me"/ Bar Kappara: mourning powerful for three days while face is still recognizable	same as QR at first but then soul hovers over body for three days, considers staying in body, sees face decay after three days and decides to leave; then Bar Kappara	same as QR	this and what follows through metaphors are hints of death — these vessels, when broken, do not work

jug . . . at the cistern

your body runs to the grave	like the wheels of Sepphoris or boulders of Tiberias	Same as QR	excrement; brings in proof-text from Malachi 2:3 which can also refer to those who leave aside Torah to have a good time; after three days stomach splits, etc., and says, "Take what you have put in me"	

12:7 *and the dust returns to the ground*

Then will your flesh which was created from dust return to the earth	If soul, which has been given pure, is returned pure, then stays with God; if not, it is burned. (This only applies to the old; the young are punished in this world)	Same as QR	discussion on decay of the flesh of the righteous (152b) [interprets 12:7b first]	**flesh returns to the earth**

and the lifebreath returns to God Who bestowed it

the spirit of your soul will return to stand in judgment before the Lord who gave it to you			same idea about returning soul purely as it has been given, but different aggadah (152b)	*soul returns to God*

Jamnia After Forty Years

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Though technical discussions of the canon of Scripture have abandoned the view widely held at mid-century that the canon was closed at the Council/Synod of Jamnia, the hypothesis is still expounded in numerous standard reference works as well as in many expositions on the Internet. This paper updates and expands a study of forty years ago, noticing that Jacob Neusner, his students, and others have made available in English the traditions of the sages of the Yavneh period. A summary of traditions concerning Yavneh and the concerns of its scholars is offered to make the more obvious that they contain nothing of the closing of the canon at a Council of Jamnia. It is recognized that no contemporary sources exist and that the traditions may be colored by later developments. Consideration is given to the terminology used in describing Yavneh gatherings, contending that the terms "council" or "synod" are unsuitable for them. The thesis of the author is that the texts (whether taken historically or legendarily) do not support the Council of Jamnia hypothesis. While the earlier study dealt only with the question of the closing of the canon, the present study shows that the traditions also do not support hypotheses that the text of Scripture was fixed or that the final break between Jews and Christians took place at the alleged council.

Forty years ago the author presented a paper to the Society of Biblical Literature entitled "What Do We Mean by Jabneh?" which has received wide recognition for its calling attention to a fallacy commonly held on inadequate evidence about the canonization of Scripture.[1] It now is more frequently acknowledged that our information about proceedings at Jamnia [Hebrew: *Yavneh*] is quite sparse.

Nevertheless, the disputed view continues to be met in such basic tools as the *Encyclopedia Judaica*,[2] the *Encyclopedia Britannica*,[3] in Kittel, *Theological Dictionary*,[4] *The Cambridge History of Judaism*,[5] and *The Cambridge History of the Bible*. Anderson, in *The Cambridge History of the Bible*, says, "The assembly which probably was responsible for the last major stage in the definition of the Canon was the so-called Synod of Jamnia."[6] While admitting that the evidence for decisions relating to the Scriptures is far from clear, Anderson throws all

1 See Jack P. Lewis, "What Do We Mean by Jabneh?" *JBR* 32 (April 1964) 125–32; repr. in Sid Z. Leiman, ed., *The Canon and Masora of the Hebrew Bible* (New York: Ktav, 1974) 254–61.

2 Michael Avi-Yonah, "Yavneh," *EncJud* 2 (1971) 1177.

3 John B. Noss, "Sacred Scripture," *Enc. Brit.* (30 vols.; 15th ed.; Chicago: H. W. Benton, 1982) 16:127.

4 Rudolf Meyer, "Krypto," *TDNT* 3:985.

5 Mathias Delcor, "Jewish Literature in Hebrew and Aramaic in the Greek Era," and "The Apocrypha and Pseudepigrapha of the Hellenistic Period," *CHJ* (1989) 2:369, 416.

6 George W. Anderson, "Canonical and Non-Canonical," in P. R. Ackroyd, ed., *The Cambridge History of the Bible* (3 vols.; Cambridge: Univ. Press, 1970) 1:133.

discussion of biblical books in rabbinic sources into one Jamnia pile but admits that the evidence on which his case is based is "circumstantial rather than precise." He speaks of "formal ratification in the Jamnia period."[7] On the popular level, articles expounding the council on the Internet are abundant.

In the intervening years since Lewis's paper was given, with the demise of the case for the closing of the canon at Jamnia, the hypothesis has taken on new forms in the resurrection of the earlier case for fixation of the Hebrew text at the council of Jamnia.[8] Also there are affirmations that the breach between Judaism and Christianity was accomplished at the council, particularly in the insertion of the *birkat ha-minim* into the *shemone 'esre* (Eighteen Benedictions) as that which forced Jewish Christians to reveal themselves. In Johannine studies this last item is used by some to explain *aposynagōgos* (John 9:22; 12:42; 16:2; cf. Luke 6:22), the "casting out of the synagogue."[9]

Meanwhile, new surveys of the Yavneh period have appeared, and the studies of Jacob Neusner and his disciples concerning the legal enactments of the various Yavneh figures make more readily available to those not reading Hebrew the traditions of the concerns of these persons. All of these developments make it worthwhile to take another look at the gatherings at Yavneh, at its scholars, and at their decisions in as far as they can be known.

My concerns are not the same as those of S. J. D. Cohen in his seminar paper which dealt with Yavneh.[10] Cohen sought to demonstrate that a coalition was formed in the Yavneh period which terminated Jewish sects. The scholars differed from each other but did not divide. I am too long out of Alexander Guttmann's Mishnah classes to claim any competence in discussion with rabbinic scholars about rabbinic questions; from them I can only ask for charity for my shortcomings. My concerns are with assertions made by non-Jewish scholars about the Council of Jamnia. My aim in this paper is, in as far as possible, to avoid duplication of my previous paper.

The task of looking at the gatherings at Yavneh is made difficult by the fact

7 Anderson, "Canonical," 1:139, 159.

8 Geza Vermes, "Impact of the Dead Sea Scrolls on Jewish Studies During the Last Twenty-five Years," *JJS* 26 (1975) 5, affirmed, "The Scrolls now show that the rabbis assembled there [at Yavneh] under the leadership of Yoḥanan ben Zakkai and Gamaliel II had also to decree which single type of text should count henceforth as sacred." Rudolf Meyer, "Bemerkungen zum literargeschichtlichen Hintergrund der Kanontheorie des Josephus," in O. Betz, K. Haacker, and M. Hengel, eds., *Josephus-Studien* (Göttingen: Vandenhoeck & Ruprecht, 1974) 291, speaks of the line of Masoretic text called into being through the Synod of Jamnia.

9 Günter Stemberger, "Die Sogennante 'Synode von Jabne' und das frühe Christentum," *Kairos*, N.F. 19 (1971) 14–21; see the bibliography in Wolfgang Schrage, "aposynagōgos," *TDNT* 7:848.

10 Shaye J. D. Cohen, "Yavneh Revisited: Pharisees, Rabbis, and the End of Jewish Sectarianism," *SBLSP* (1982) 45–61; "The Significances of Yavneh, Pharisees, Rabbis and the End of Sectarianism," *HUCA* 55 (1984) 27–53.

that the gatherings, unmentioned by Josephus, patristic, and classical writers, are known only from rabbinic materials. In rabbinic sources there are no contemporary accounts; what sources exist were compiled over a long period of time and were colored by later interpretation. The earliest, the Mishnah, was traditionally issued by Judah the Prince from earlier materials assembled by Meir and Akiba and was redacted about 200 C.E. The Tosefta of Ḥiyya bar Abba was issued in the early third century.[11] Still other material is found in *baraitot* of the Talmud which was not closed until the sixth century.[12] Material preserved in the *midrashim* in their present form is still later. The sources are not completely harmonious. Chronological indications are minimal, leaving the problem of whether a position is pre-Yavnean, Yavnean, or post-Yavnean. The extant traditions give positions held by figures known to have been at Yavneh, but in most cases assign no dates which permit an opinion about what time in the scholar's life the positions were held and stated.[13]

Often also no geography is given. The student has to face the question whether the reports given represent the time of the meetings, the times of the transmitting sages who are cited, or the times of the redaction of the texts. The researcher also must struggle with data where methodological disagreement is found. Older researchers added all the traditions together and from the total formed a picture. The trend now is to attempt to exercise more care to distinguish the historical from the unhistorical. It is assumed that early texts are likely to be more reliable than later ones. One cannot assume that there is no early or late in "Torah." As Neusner has pointed out, however, there is no way of verifying whether a cited scholar really said what he is quoted as having said.[14] Traditions are assigned to Yavneans living in the shadow of the fall of Jerusalem and to Ushians living in the shadow of the Bar Kokhba catastrophe. They need to be distinguished.

However, for our present purposes, in the final end, one does not need to determine the historical value of every reported detail or even to decide when a tradition arose. Taking the traditions at face value (historical or unhistorical), they do not tell of the closing of the canon of Scripture at Yavneh, of the standardization of the text of Scripture there, and they have little to support the parallel that as Christianity moved into its councils for the solving of its problems, Judaism solved its problem by a council (or synod) at Yavneh. That the *birkat ha-minim* was introduced to expose Jewish Christians is debated.

11 Hermann L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash*, trans. M. Bockmuehl (Edinburgh: T. & T. Clark, 1991) 170.

12 Strack and Stemberger, *Introduction*, 212.

13 The summary of the problem is indebted to Jacob Neusner, "The Formation of Rabbinic Judaism: Yavneh (Jamnia) from A.D. 70–100," *ANRW* 2.19.2 (1978) 1–16.

14 Neusner, "The Formation," 13.

When properly interpreted, these are hypothetical cases projected in the absence of support from any ancient text.

Yavneh and Its Sages

In order to see the Jamnia problem, Yavneh, its sages, and the traditions about them in the early sources must be considered. While the tradition is not harmonious, legend has it that Rabban Yoḥanan ben Zakkai, receiver of the Torah from Hillel and Shammai,[15] and brought as a pretending corpse out of doomed Jerusalem by his disciples Eliezer and Joshua, asked Vespasian for Yavneh and its scholars as well as for the succession of Rabban Gamaliel.[16] Apparently Yavneh (now called Yavne and located south of Tel Aviv), a place of internment for pacified Jewish people, had already been established as a place of learning behind the battle lines. According to Josephus,[17] Vespasian in the spring of 68 C.E. in his march southward from Caesarea had quartered at Jamnia "an adequate number of residents from those [districts] who had surrendered" so that Yavneh would have already been a pacified city. G. Alon[18] and S. Safrai,[19] however, argue that it is more likely that Yoḥanan and his disciples were sent to Yavneh as internees. A. J. Saldarini evalutates Alon's contention as being tendentious from events during and after World War II.[20]

Yoḥanan seems not to have been supported by the priests; in pre-70 C.E. Judaism, the high priest had been leader of the nation.[21] He differed with Ben Bukri over the priests paying the shekel tax and with others over marriage with priests.[22] With Yoḥanan at Yavneh would have been, among others, his disciples. Yoḥanan ordained Eliezer and Joshua giving them the title "Rabbi."[23] Neusner points out that the form of the good society which Yoḥanan created for his disciples was the academy; his sole credential as master was his learning; and his

15 *M.ʾAbot* 2:8.

16 *B.Giṭ.* 56b; cf. *Lam. Rab.* 1:5; *ʾAbot R. Nat.* 4; Peter Schäfer, "Die Flucht Joḥanan b. Zakkais aus Jerusalem und des Gründung 'Lehrhauses' in Jabne," *ANRW* 2.19.2 (1979) 43–101; W. M. Christie, "The Jamnia Period in Jewish History," *JTS* 26 (1925) 347–64; Anthony J. Saldarini, "Joḥanan ben Zakkai's Escape from Jerusalem: Origin and Development of a Rabbinic Story," *JJS* 6 (1975) 189–204.

17 Josephus, J.W. 4.8.1 (444).

18 Gedalia Alon, *Jews, Judaism, and the Classical World*, trans. Israel Abrahams (Jerusalem: Magnes Press, 1977) 294; *The Jews in Their Land in the Talmudic Age*, trans. G. Levi (2 vols.; Jerusalem: Magnes Press, 1980) 1:97.

19 Shemuel Safrai, "The Jews in the Land of Israel (70–335 C.E.)" in H. H. Ben-Sasson, ed., *A History of the Jewish People* (Cambridge, Mass.: Harvard Univ. Press, 1976) 320.

20 Anthony J. Saldarini, "Reconstructions of Rabbinic Judaism," in R. A. Kraft and G. W. E. Nichelsburg, eds., *Early Judaism and Its Modern Interpreters* (Philadelphia: Fortress, 1986) 454.

21 David Goodblatt, *The Monarchic Principle* (Tübingen: J. C. B. Mohr [Paul Siebeck], 1994) 277.

22 *M.Šeqal.* 1:4; *m.ᶜEd.* 8:3.

23 *Y.Sanh.* 1.2, 13d.

main function was to teach.[24] Though a priest,[25] not a descendant of David, his authority was no doubt advanced by his prior standing before the destruction of Jerusalem in which letters sent from Jerusalem to cities of Israel and to the Diaspora contained his name as well as that of Rabban Simeon ben Gamaliel.[26] He had, however, to overcome the feelings and opposition of those who felt that he had abandoned Jerusalem in its crisis.

R. Yoḥanan, already an old man possibly beyond seventy years, began building the authority of sages in Yavneh by a series of enactments which method may be compared to that earlier used by Hillel. He made Yavneh the center of Jewish life, exercising privileges previously peculiar to Jerusalem. When the New Year fell on the Sabbath, the *shofar* was blown in Yavneh "in memory of the temple" though previously it was blown only in the temple.[27] When the Bene Bathyra objected demanding that the question be debated, Yoḥanan insisted that they blow the *shofar* first and discuss afterward. But once the *shofar* had been blown, he refused to discuss what by that act had made a precedent. He had the *Bet Din* to announce and sanctify the new moon.[28] The *lulab* was to be carried seven days in memory of the temple.[29] Control of the calendar, essential to Jewish life, added to Yavneh's authority.

According to the Talmud, envoys from Yavneh carrying official letters fixed the *Ibbur* (intercalation);[30] but likely this practice was not true in Yoḥanan's time. A Midrash says that the Shekinah (God's glory) was exiled with God's people.[31] The Yavneh period covers about sixty years (70–132 C.E.).

When the news of the burning of the temple came, Yoḥanan and Joshua tore their garments, but Yoḥanan said, "We still possess a means of atonement which is higher than sacrifice, good deeds."[32] The sources tell nothing of the development of relations with the Diaspora, of Yoḥanan's supervision of communities in the land of Israel, or of civil law. Safrai points out that the Romans would not have tolerated such.[33]

24 Jacob Neusner, *A Life of Rabban Yoḥanan ben Zakkai* (2d ed.; Leiden: E. J. Brill, 1970) 70.

25 Whereas Hugo Mantel, *Studies in the History of the Sanhedrin* (Cambridge, Mass.: Harvard, 1961) 31, n. 179, depicts Yoḥanan as a priest, Neusner, *A Life of Rabban Yoḥanan*, 59, n. 1, insists the assumption is not well-grounded.

26 Safrai, "The Jews," 319; Neusner, *A Life of Rabban Yoḥanan*, 237–38

27 *M.Roš Haš.* 4:1.

28 *M.Roš Haš.* 4:1; *b.Roš Haš.* 29b.

29 *M.Sukkah* 3:12.

30 *B.Sanh.* 11a; *Maseketh Sopherim* 19.

31 *Eika Rabbati* 1:32. For conflicting traditions on the Shekinah, see Ephraim E. Urbach, *The Sages — Their Concepts and Beliefs*, trans. I. Abrahams (Jerusalem: Magnes Press, 1975) 54ff.

32 *ʾAbot R. Nat.*, ch. 4.

33 Safrai, "The Jews," 321. Goodblatt, *The Monarchic Principle*, 224, points out that no reliable evidence exists that he had or sought a role of national significance.

At a date which cannot be determined exactly, Yoḥanan retired to Beror Ḥayil, and his disciples followed him.[34] At his approaching death (estimated to have fallen between 80–85 C.E.),[35] he was lamented by his disciples as the Lamp of Israel.[36] His disciples then returned to Yavneh.[37]

However, Eleazar ben Arakh (once praised by Yoḥanan as an "Ever-flowing stream"), stimulated by his wife's preference for Emmaus over Yavneh, left the academy in transgression of Hillel's admonition, "Keep not aloof from the congregation,"[38] moved to Emmaus, and there deprived of the company of other scholars, is said to have forgotten even how to read the Hebrew text.[39] While the sources conflict over whether Eleazar went to Emmaus from Jerusalem or went after Yoḥanan's death, Alon thinks that he, R. Jose ha-Kohen, and R. Simeon b. Nathaniel were not at Yavneh.[40]

At Yavneh, Rabban Gamaliel II, traditionally a descendant of the house of Hillel,[41] had become *nasi'* which title Yoḥanan had not assumed.[42] One theory to explain the delay of Gamaliel's rise is that he had found it necessary to go into hiding following the fall of Jerusalem because of the anti-Roman sentiments of his father, Simeon ben Gamaliel.[43] S. Safrai assumes that only after the termination of the reigns of the Flavians could Gamaliel assume leadership.[44]

Gamaliel's standing came to be acknowledged by the Romans.[45] He was invested by the governor of Antioch[46] and made visits to Rome. Jewish circles recognized his authority and he was joined by sages who had not joined R. Yoḥanan.[47] Sources report on "Gamaliel and the elders."[48] Jews from the Diaspora sent delegations to Yavneh (where the sages gathered from their respective homes) on the

34 *B.Sanh.* 32b.

35 In later tradition he was paralleled to Moses with a life of 120 years (*Sipre Deut.* 357); Neusner, *A Life of Rabban Yoḥanan*, 227, n.1.

36 *B.Ber.* 28b; *ʾAbot R. Nat.* 25.

37 *Eccl. Rab.* 7.6.2; *ʾAbot R. Nat.* 14.

38 *M.ʾAbot* 2:5; cf. 4:5.

39 *M.ʾAbot* 2:8; *b.Šabb.* 147b; *ʾAbot R.Nat.* 14; *Eccl.Rab.* 7:6.2; see Alon, *The Jews in Their Land*, 1:104–5.

40 Alon, *Jews, Judaism*, 326–27.

41 The tradition is questioned by Goodblatt, *The Monarchic Principle*, 210–11, 217.

42 Goodblatt, *The Monarchic Principle*, 188–92, argues that the term at this time means president of a local assembly not a national leader of the Judeans.

43 *B.Taʿan.* 29a.

44 Safrai, "The Jews," 322.

45 Against the consensus which assumes that Gamaliel was the choice of the Judeans, Goodblatt (*The Monarchic Principle*, 219–20, 225) argues that he, as a lay person, was chosen by the Romans to lead the nation.

46 *M.ʿEd.* 7:7; *b.Sanh.* 11a; Mantel, *History of the Sanhedrin*, 20–21.

47 See the list in Alon, *The Jews in Their Land*, 1:103–5.

48 *M.Maʿaś. Š.* 5:9; *m.Šabb.* 16:8; *m.ʿErub.* 10:10.

three festivals seeking answers to halakic questions.[49] Under Gamaliel, questions of halakic practice were brought to Yavneh from Tiv'on and Sepphoris.[50] One such question dealt with circumcision.[51] Other questions were from Kefar ʿadim and Kefar Signah.[52] Gamaliel's journey to Rome accompanied by Eleazar ben Azariah, Joshua ben Ḥananiah,[53] and Akiba is thought to have been in the time of Domitian. There are numerous haggadic legends about the visit. Alon argues that there was a series of diplomatic missions to Rome.[54]

Gamaliel knew Greek and Latin. He was awarded the title of Rabban. He reinstated R. Yoḥanan ben Nuri and R. Eleazar ben Ḥisma in the academy.[55] The tradition reports his numerous clashes with the sages.[56] Out of arbitrariness he alienated the rabbis to the extent that when he humiliated R. Joshua with whom he differed over the obligation of the evening prayer, the rabbis rose in revolt, deposed him,[57] and selected the sixteen year old Eleazar ben Azariah, tenth generation descendant from Ezra (and thereby a priest);[58] as *nasi'*. The Mishnah speaks of traditions received from seventy-two elders on that day.[59] The doorkeeper was dismissed, and numerous scholars who had previously been excluded from the sessions came in.[60] Three hundred benches were added to accommodate them. Elsewhere there are allusions to eighty-five sages seated before R. Gamaliel[61] and to thirty-eight Elders in the Vineyard at Yavneh.[62] The tradition claims that there was no dispute pending which was left unresolved. There is no way to determine whether the claim is historical.[63]

Gamaliel, however, though removed, did not absent himself from the academy for even one hour but continued to attend the sessions, ultimately apologized to Joshua, and was reinstated, now to share leadership with Eleazar.

49 *T.Parah* 7:4 (Zuck., 636); *t.Ḥul.* 3:10 (Zuck., 504); *t.Miqw.* 4:6 (Zuck., 656); Alon, *The Jews in Their Land*, 1:231.

50 *T.Nid.* 4:3–4 (Zuck., 644); *t.Kil.* 1:4 (Zuck., 73).

51 *T.Šabb.* 15:8 (Zuck., 133).

52 *M.Kelim* 5:4; *t.Kelim B.Meṣiʿa* 11:2 (Zuck., 589) *t.Kelim B.Qam.* 4:4 (Zuck., 572).

53 *M.Maʿaś. Š.* 5:9; *t.Sukkah* 2:11 (Zuck., 195); *Sipre Deut.* 43; *b.Mak.* 24a, b.

54 Alon, *The Jews in Their Land*, 1:124–30.

55 *Sipre Deut.* 16 (Finkelstein, 26); cf. *b.Hor.* 10a.

56 *M.Roš Haš.* 2:8–9; *b.Ber.* 27b–28a.

57 See Robert Goldenberg, "The Deposition of Rabban Gamaliel II: an Examination of the Sources," *JJS* 23 (1972) 167–90.

58 *B.Ber.* 27b; *y.Yebam.* 1.3b (Neusner, tr. 55).

59 *M.Yad.* 3:5; 4:2; *m.Zebaḥ.* 1:3.

60 *B.Ber.* 28a; *y.Ber.* 4:1, 7d (Neusner, tr., 165).

61 *T.Kelim B.Bat.* 2:4 (Zuck., 592).

62 *Sipre Huqat* 124; Horovitz, ed., 158.

63 Shamai Kanter, *Rabban Gamaliel II: The Legal Traditions*, BJS 8 (Chico, Calif.: Scholars Press, 1980) 303.

The sources are contradictory concerning the status of Eleazar with tannaitic sources calling him *resh methivta* and the Jerusalem Talmud calling him *Ab Bet Din*.[64] Gamaliel taught three Sabbaths of the month and Eleazar one.[65]

Conservative R. Eliezer ben Hyrcanus, adherent of ancient traditions who was one of the two who had smuggled Yoḥanah out of Jerusalem, refused to accept the decisions of the other rabbis about a question of levitical purity. Though he was Gamaliel's brother-in-law (married to his sister), the ban (*niddui*) was invoked against him, and Akiba had the task of informing him. Eliezer retired to Lydda where he continued to direct his own court and school.[66] He remained under the ban for the rest of his life; however, following his death, his students lamented that knowledge of the Torah was gone.[67] Akiba lamented that he had many remaining questions with no one to answer them.[68]

R. Joshua ben Ḥananiah, remembered as the other of the two who smuggled Yoḥanan out of Jerusalem, was a dominant figure in Yavneh but also had his school at Peki'in.[69] At one point Joshua expressed his depressed feelings in a "Woe unto us" because of the fate of Jerusalem,[70] but he opposed excessive fasting in grief over its destruction. He was a part of the delegation headed by Gamaliel II sent by the Jews to Rome.[71] He is presented in the sources as being in conflict with Gamaliel over the calendar and as being forced to yield despite the fact that the testimony on which Gamaliel made his decision was in error.[72] The two also clashed over the obligation of the evening prayer as has been narrated. A Talmud passage designates R. Joshua as *Ab Bet Din*.[73] In the times following his clash with Gamaliel, academic freedom in discussions was treasured by him.[74] Often in conflict with R. Eliezer ben Hyrcanus, R. Joshua remained a prominent authority throughout the Yavneh period, but he retired from Yavneh and ended his days at Peki'in.[75]

Joshua is remembered for arguing against the ban prohibiting certain peoples on racial grounds from joining the congregation,[76] and for arguing that only

64 *B.Ber.*27b; *y.Ber.*4.7c; *y.Taʿan.*4.67d.

65 *B.Ber.*28a; *y.Ber.*4:1.

66 *Y.Ber.*3:1, 5d; *b.Moʾed Qat.*27a; Neusner, *A Life of Rabban Yoḥanan*, 76.

67 *T.Soṭah* 15:3 (Zuck., 321).

68 *ʾAbot R. Nat.* 25 (Goldin, 110).

69 Joshua Podro, *The Last Pharisee* (London: Vallentine, Mitchell, 1959); William S. Green, *The Traditions of Joshua ben Ḥananiah*, SJLA 29 (Leiden: E. J. Brill, 1981).

70 *T.Soṭah* 15:2 (Zuck., 321); Podro, *The Last Pharisee*, 40; *ʾAbot R. Nat.* 4; cf. *b.Ber.*32b.

71 *M.ʿAbod. Zar.* 4:7; *Deut. Rab.* 2:15; *b.Sanh.*90b; *b.Hor.*10a. *Gen. Rab.* 20:4.

72 *M.Roš Haš.* 2:9.

73 *B.B.Qam.*74b; Alon, *The Jews in Their Land*, 1:321, n. 39, thinks the reference is to a local court.

74 *ʾAbot R. Nat.* 18.

75 *B.Ḥag.*33a.

76 *M.Yad.*4:4.

baptism, not circumcision, be required of the proselyte.[77] He and R. Eliezer taught the proselyte Aquila.[78]

Gamaliel II lived on to near the end of the Yavneh period. The date of his death is set by Gafni as about 114 C.E.[79] Despite his wealth and power, Gamaliel gave orders that he be buried in a simple linen shroud;[80] but Onkelos the proselyte kindled a massive funeral pyre for him.[81] The *nasi'* position was left open. R. Tarfon occupied a prominent place,[82] but R. Joshua became leader of the people. However, when R. Joshua sought to get the assembly to change some of Gamaliel's rulings, his proposal was opposed by Yoḥanan ben Nuri, and the group rejected the proposal.[83]

It is conjectured that the move from Yavneh to Usha came as an emergency measure following the uprisings at the close of Trajan's reign (115–117 C.E.).[84] In the tradition, ten moves of the Sanhedrin are listed;[85] but in *Bereshith Rabbah* 97 only one move from Yavneh is mentioned.[86] Zeitlin conjectured that the move back to Yavneh came with the temporary successes of Bar Kokhba, and then with the collapse of the rebellion the move was back to Usha, marking the close of the Yavneh period.[87] Alon, on the contrary, argues that the move to Galilee came only after the Hadrianic period.[88]

Concerns of the Yavneans

As the Tannaites are divided by Strack and Stemberger,[89] the Yavneans are grouped in three generations before the Yavneh meetings came to an end about 132 C.E. The first group include Yoḥanan ben Zakkai,[90] R. Zadok,[91] Gamaliel II,[92] and Ben

77 *B. Yebam.* 46a; *y. Qidd.* 3:12.

78 *Eccl. Rab.* 7:8.

79 Isaiah M. Gafni, "The Historical Background," in S. Safrai, ed., *The Literature of the Sages* (Philadelphia: Fortress Press, 1987) 1:19.

80 *b. Moʾed Qat.* 27b; *b. Ketub.* 8b; *t. Nid.* 9:17 (Zuck., 652).

81 *T. Šabb.* 7(8):18 (Zuck., 119).

82 Alon, *Jews, Judaism*, 322.

83 *T. Taʿan.* 2:5 (Zuck., 217); *b. ʿErub.* 41a; Louis Finkelstein, *Akiba, Scholar, Saint, and Martyr* (1936; repr., New York: Atheneum, 1981) 239.

84 *B. Ketub.* 49b.; *b. Moʾed Qat.* 17a; *b. Šabb.* 15b; *y. Moʾed Qat.* 3:1.

85 *B. Roš Haš.* 31a and b.

86 See Lee I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (New York: The Jewish Theological Seminary of America, 1989) 78–82.

87 Solomon Zeitlin, *The Rise and Fall of the Judaean State* (3 vols.; Philadelphia: The Jewish Publication Society of America, 1978) 3:452, n. 122; Podro, *The Last Pharisee*, 109.

88 Alon, *The Jews in Their Land*, 2:464.

89 Strack and Stemberger, *Introduction*, 74–83.

90 *M. Roš Haš.* 4:1, 3; *b. Giṭ.* 56a, b; *b. Menaḥ.* 21b.

91 *B. Giṭ.* 56b.

92 *T. Sanh.* 8:1 (Zuck., 427).

Bokri.[93] The five disciples of Yoḥanan are Eliezer ben Hyrcanus, Yosi, Simeon b. Nathaniel, Eleazer b. Arakh, and Joshua b. Ḥananiah.[94]

The second generation (90–130 C.E.) has an older group which include Gamaliel II,[95] Eleazar ben Azariah,[96] Joshua ben Ḥananiah,[97] Eliezer ben Hyrcanus,[98] Levitas,[99] Samuel the Little who formed the curse against the *Minim*,[100] and Simeon the Pakulite who is reputed to have formulated the Eighteen Benedictions.[101]

Among the younger group are R. Akiba,[102] R. Tarphon,[103] R. Ishmael,[104] R. Jose the Galilean,[105] Simon the Temanite,[106] a butcher Ila,[107] and a physician Theodos.[108]

The third generation includes R. Judah, R. Nehemiah, and R. Eliezer the son of R. Jose the Galilean.[109]

What is new about Yavneh since 1964 is that collections of traditions dealing with the various Yavneh scholars have been issued in English making it simpler to know the concerns connected with their names. What is striking is that these studies have not depicted Yavneh scholars as being concerned with the closing of the canon of Scripture, the stabilizing of the text of Scripture, or with the break with Christianity which certain scholars ascribe to the "council of Jamnia." The passages dealt with in my paper of forty years ago cover what we know of discussion of the nature of scripture books. Ideas about activity in the other two areas in which assertions about Jamnia are being made remain hypothetical without support in ancient texts.

For none of the Yavneh figures is there adequate materials for anything approaching a complete biography. The surveys of the traditions connected with each of them published in the past generation only confirm that Mishnah *Yadaim* 3:5 (and its parallels) is the only extant early text which deals with the discussion of the standing of biblical books at Yavneh.

93 *B.Menaḥ.* 21b.
94 *Eccl. Rab.* 7.7.2.
95 *T.Sanh.* 8:1 (Zuck., 427).; *b.Ber.* 2b.
96 *B.Ber.* 27b.
97 *B.Sanh.* 17b.
98 *B.Sanh.* 17b; Jacob Neusner, *Eliezer ben Hyrcanus. The Tradition and the Man,* SJLA 3–4 (Leiden: E. J. Brill, 1973).
99 *M.ʾAbot* 4:4.
100 *B.Soṭah* 48b; *b.Ber.* 28b.
101 *B.Ber.* 28b; *b.Meg.* 17b.
102 *B.Ber.* 27b.
103 *M.Ber.* 6:8; *m.Bek.* 2:6–9; *b.Zebaḥ.* 57a; *b.Qidd.* 66b.
104 *B.Zebaḥ.* 57a; Gary G. Porton, *The Traditions of Rabbi Ishmael,* SJLA 19 (Leiden: E. J. Brill, 1981).
105 *M.Ber.* 7:3; *m.Bek.* 2:6; 8:1; etc.; Jack N. Lightstone, *Jose the Galilean,* SJLA 31 (Leiden: E. J. Brill, 1979).
106 *B.Sanh.* 17b.
107 *M.Bek.* 4:5; 6:8.
108 Todros or Theodorus; *m.Bek.* 4:4; *b.Sanh.* 33a.
109 *B.Ber.* 63b.

A discussion is recorded between Yoḥanan and a certain Sadducee over whether the Scriptures "defile the hands";[110] but there is no preserved record of any canonical debate during Yoḥanan's leadership at Yavneh. He was faced with adjusting to a world without a temple. The nine *taqqanoth*[111] of Yoḥanan ben Zakkai deal with matters of Jewish concern. The *shofar* could be blown when New Year fell on a Sabbath where there was a court,[112] that the *lulab* should be carried seven days in memory of the temple,[113] that evidence about the new moon might be admitted throughout the day,[114] and that on the entire day of waving the sheaf of new grain the eating of new grain should be prohibited.[115] Trading meal and parched grain in the market throughout the day of offering the *'Omer* was forbidden.[116] When the temple should be rebuilt, things concerning receiving witnesses to the appearance of the New Moon would return to what they had been before.[117] The references may be to all the Yavneh ordinances.[118]

The Sabbath could be profaned for festivals of Nisan and Tishri alone.[119] As has been said earlier, Yoḥanan discussed with the Bene Bathyra the blowing of the *shofar* on a New Year which fell on a Sabbath.[120] There is also the matter of a proselyte's offering after the destruction of the temple.[121]

Uri D. Hercher depicts Yoḥanan as one interested in mysticism and esoteric speculation connected with Ezekiel's chariot. He finds him concerned with preservation of the messianic promise, diverting the interest of his students from revolt against Rome and persuading them that the future was not utterly bleak.[122]

Whether Yoḥanan actually made these decrees or not is irrelevant to our purpose. The sources have no record of Yavneh dealing with civil matters in R. Yoḥanan's time, nor is there record of sanctions being imposed on law breakers.[123] Nothing in the traditions of Yoḥanan ben Zakkai has to do with any of the three areas of concern of this paper.

During the period 80–114 C.E., Gamaliel II had succeeded Yoḥanan and

110 *M.Yad.* 4:6.

111 *B.Roš Haš.* 31a; *b.Soṭah* 40a.

112 *M.Roš Haš.* 4:1.

113 *M.Sukkah* 3:12; *m.Roš Haš.* 4:3; *Sipra, ʾEmor*, Pereq.16:9, Weiss, 102b.

114 *M.Roš Haš.* 4:4; *b.Beṣah* 5a.

115 *Sipra, ʾEmor*, parasha 10:10 (Weiss, 100b; Neusner, 3:240); *m.Sukkah* 3:12; (Danby, 177).

116 *M.Menaḥ.*10:5.

117 *T.Roš Haš.*2:9 (Lieberman 2:315).

118 *Y.Ḥal.*1:1; *b.Soṭah* 40a; Jacob Neusner, "Studies on the TAQQANOT of Yavneh," *HTR* 63 (April 1970) 183–98.

119 *B.Roš Haš.* 21b; cf.30b.

120 *B.Roš Haš.* 29b.

121 *B.Roš Haš.* 31b; *b.Ker.* 9a.

122 Uri D. Hercher, "Yoḥanan ben Zakkai at Yavneh: Merkavah and Messiah," in S. F. Chyet and D. Ellenson, eds., *Bits of Honey: Essays for Samson H. Levey*, *SFSHJ* 74 (Atlanta: Scholars Press, 1993) 25–42.

123 Alon, *The Jews in Their Land*, 1:109.

was the recognized leader.[124] Gamaliel assumed the title of *Nasi*,[125] but in the tradition the first known use of *Kethubim* for the third section of Scripture occurs in his answer to the Sadducees about where Scripture taught the resurrection of the dead. His reply was, "in the law, prophets, and writings."[126]

As already pointed out, Gamaliel's leadership was recognized by the Romans.[127] Jewish courts, though not independent of Roman supervision, dealt with the whole area of civil law.[128] Non-Jewish courts also existed.[129] Gamaliel forced Joshua b. Ḥananiah to accept his calendar for the day of atonement.[130] The ban was used to enforce decisions against Eliezer b. Hyrcanus.[131] A *bat qol*, while recognizing that the schools of Shammai and of Hillel both taught the voice of the living God, stated that the *halakhah* was to be according to the practices of Bet Hillel.[132]

During the leadership of Gamaliel II, Simeon the Pakulite is said to have formulated the Eighteen Benedictions in the presence of Gamaliel.[133] The prayer against the *minim* which we will examine later was inserted in the benedictions. Kanter pointed out that in Gamaliel's traditions in the Mishnah and Tosefta, out of 137 legal pericopae dealing with Sabbath, festival laws, uncleanness, liturgy, civil and criminal, agricultural, family matters, inheritance, Temple, oaths, vows, and Gentiles, there are fifteen Yavnean pericopae.[134] Eight of them bear the name of Eleazar b. Zadok, four of Akiba, and the others are from Zadok, Hanina nephew of Joshua, and Joshua ben Qebusai. They deal with Passover, Sabbath limit, marriage, temple, vows, and uncleanness. The non-legal materials comprising the rest of the Gamaliel traditions are more difficult to come by,[135] but are historical, exegetical, biographical, and legendary.[136]

124 Mantel, *History of the Sanhedrin*, 2, n. 4, gives 80–117 C.E.

125 Sidney B. Hoenig, *The Great Sanhedrin* (Philadelphia; Dropsie College, 1953) 63, 253, n. 15a. Goodblatt, *The Monarchic Principle*, 183–91, argues that the title for an actual office is not earlier than Simeon bar Kosiba. Certain sources later than the time of Judah I imply that Gamaliel held the title but do not directly call him *nasi'*. *Nasi'* could be the leader of a local court, not the national leader of the Judeans.

126 *B.Sanh.* 90b.

127 *M.ᶜEd.* 7:7; Hoenig, *The Great Sanhedrin*, 64.

128 Alon, *The Jews in Their Land*, 1:212–13.

129 M.*Giṭ.* 9:8; *t.Yebam.* 12:13 (Zuck., 256).

130 *M.Roš Haš.* 2:9; *b.Roš Haš* 25a, b.

131 *B.B.Meṣiᶜa.* 59b.

132 George F. Moore, *Judaism in the First Centuries of the Christian Era, the Age of the Tannaim* (Cambridge, Mass.: Harvard Univ. Press, 1930) 1:85, citing *y.Ber.* 3b end; *b.Erub.* 13b.

133 *B.Meg.* 17b; *b.Ber.* 28b; however, the fourth benediction was later said to have been instituted at Yavneh following the defeat at Bethar in 135 C.E.; *b.Ber.* 48b; *b.Taᶜan.* 31a; *b.B. Bat.* 121b.

134 Kanter, *Rabban Gamaliel II*, 27–71.

135 Kanter, *Rabban Gamaliel II*, ix.

136 Kanter, *Rabban Gamaliel II*, 157.

R. Eliezer ben Hyrcanus,[137] because of his memory powers, had been praised by R. Yoḥanan as "a plastered cistern which does not lose a drop."[138] He had brought Yoḥanan out of Jerusalem and later followed him to Beror Ḥayil when leadership of the Yavneh academy passed to R. Gamaliel.[139] However, after the death of Yoḥanan, Eliezer returned to Yavneh. One gathering of Yavneh deemed him one of two men worthy of divine inspiration.[140] Eliezer was a preserver of tradition, and the place where he sat in the academy was known as "the Mountain of Sinai."[141]

Eliezer made his home in Lydda, was a man of great wealth, and was a slave owner. In addition to activities at Yavneh, he conducted his own school and judicial court, called *Bet Mothba Rabba*, in what had formerly been a public arena in Lydda.[142] He was called Eliezer the Great. He went with R. Gamaliel on an embassy to Rome conjecturally dated 90–97 C.E. He is often presented in discussion with R. Joshua. Akiba was trained in his school.

Though outvoted on an issue of levitical cleanness, Eliezer refused to yield to the majority. The rabbis issued a ban against him[143] as had already been issued against Akabya ben Mahalaleel for the same reason.[144] Eliezer retired to Lydda as an outcast but continued to be interested in what was being done in Yavneh. On one occasion he was arrested during an anti-Christian persecution and was accused of being a *Min*.[145]

Gamaliel's leadership of Yavneh was interrupted by that of Eleazar ben Azariah[146] concerning whom there are at least two hundred pericopae;[147] however, comparatively few of these are relevant to consideration of the areas of canon, text stabilization, and Christian relations. Eleazar ben Azariah is described by Joshua as the father of his generation.[148] He is later called "a spice peddler's basket" by Judah the Prince.[149] One of the traditions deals with disputes of the houses of Hillel and Shammai over sheaves left in the field during harvest.[150]

137 Jacob Neusner, *Eliezer ben Hyrcanus* (2 vols.; Leiden: E. J. Brill, 1973); Itzchak D. Gilat, *R. Eliezer ben Hyrcanus, a Scholar Outcast* (Ramat Gan, Israel: Bar-Ilan Univ. Press, 1984).

138 *M.ʾAbot* 2:8.

139 *Eccl. Rab.* 7:2; cf. *ʾAbot R. Nat.* 14.

140 Ben Zion Bokser, *Pharisaic Judaism in Transition* (New York: Block Publishing Company, 1935) 27.

141 *Cant. Rab.* 1:20.

142 *B. Sanh.* 32b; Bokser, *Pharisaic Judaism*, 21, n. 39.

143 *B.B. Meṣiʿa* 59a–b.

144 *M.ʿEd.* 6:6.

145 *T. Ḥul.* 2:24 (Zuck., 503); *b.ʿAbod. Zar.* 16b–17a; Bokser, *Pharisaic Judaism*, 16; Saul Lieberman(n), "Roman Legal Institutions in Early Rabbinics and in the Acta Martyrum," *JQR* 35 (1944–45) 20–24.

146 *Y. Ber.* 4:1; *b. Ber.* 27b–28a.

147 Tzvee Zahavy, *The Traditions of Eleazar Ben Azariah*, BJS 2 (Missoula, Mont.: Scholars Press, 1977) 1.

148 *T. Soṭah.* 7:12 (Zuck., 307).

149 *ʾAbot R. Nat.* 18.

150 *T. Peʾah* 3:2 (Lieberman, 51, lines 12–19).

A second has to do with cakes of Thank Offering and wafers of a Nazarite.[151]

The authorities of Yavneh speak about why a dead "creeping thing" should be considered clean;[152] how long a woman should remain unmarried after divorce;[153] how Scripture is to be interpreted;[154] and of hospitality.[155] There are marked differences of opinion over the necessity of priests paying the shekel tax;[156] over blemishes of animals;[157] how long a firstling may be eaten;[158] and cleanliness of objects dipped in a reservoir which is later found deficient in quantity of water.[159] They debated whether it was permissible to eat a kid roasted whole with head and shoulders placed in its entrails on the eve of Passover.[160]

R. Zadok, renowned in late tradition as a descendant of priestly stock and for his forty year fast to prevent the destruction of Jerusalem from which he was revived by Roman physicians,[161] is in other traditions presented as a Yavnean who is contemporary with Joshua and Eliezer with strong ties to Gamaliel II.[162] Zadok is presented as rebuking Joshua for improper respect to Gamaliel at the wedding of Gamaliel's son. He is a supporter of Gamaliel in a difference with Joshua which Gamaliel brought to the House of Study.[163] Late stories tell of his earlier having been taken captive to Rome where in contact with Roman ladies he manifests saintly behavior[164] and where as a student of Torah he resisted immorality.[165]

R. Eleazar b. Zadok reported that his father, R. Zadok, and one other were seated on Gamaliel's right out of respect for age while the elders (*zeqenim*) were on his left.[166] A later reporter in the Jerusalem Talmud calls him "the elder."[167]

Only fifteen legal traditions for R. Zadok have been preserved. Not all are placed geographically; but his primary concerns are with matters of cleanliness, with the owner's responsibility when the redemption lamb for the firstling of a

151 *T.Hal.* 1:6 (Lieberman, 276, lines 11–14); *b.Pesaḥ.* 38b in error reads Eliezer.
152 *B.ᶜErub.* 13b.
153 *B.Yebam.* 42b.
154 *B.B.Bat.* 131b.
155 Opinions of R. Judah, R. Jose, R. Nehemiah, and Eliezer the son of R. Jose the Galilean; *b.Ber.* 63b.
156 *M.Šeqal.* 1:4; *b.Menaḥ.* 46b.
157 *B.Bek.* 40b.
158 *b.Zebaḥ.* 57a.
159 *B.Qidd.* 66b.
160 *M.Beṣah* 2:7.
161 *B.Giṭ.* 56a, b; *Lam.Rab.* 1:5.
162 Jack N. Lightstone, "Ṣadoq the Yavnean," in W. S. Green, ed., *Persons and Institutions in Early Judaism*, BJS 3 (Missoula, Mont.: Scholars Press, 1977) 49–147.
163 *B.Bek.* 36a; cf. *b.Ber.* 27b.
164 *B.Qidd.* 40a.
165 *ʾAbot R.Nat.* 16.
166 *T.Sanh.* 8:1 (Zuck., 427, lines 10–12).
167 *Y.Sanh.* 1:4.

donkey dies.[168] Zadok agrees with the position of the sages. He is concerned with questions dealing with Scripture exegesis.[169] He found flowing water to be fit if it was more in quantity than water dripping into it.[170] He considered it fit even when the flow had been directed through the foliage of nuts.[171] The sages agreed.

It is not possible to assign all of Zadok's traditions to his Yavneh period. He spoke of making the Torah neither a crown nor a spade.[172] His son, R. Eleazar b. R. Zadok, reported a position taken that a hollowed out block of wood may become unclean.[173]

Akiba, the *'am ha'areṣ* shepherd, who, through the love and generosity of his wife Rachel to whom he owed all,[174] rose out of poverty and became the leading scholar of the period.[175] Ready to enter the Academy about 80 C.E. when he was forty years old, Akiba came to R. Eliezer b. Hyrcanus and was sent to R. Tarphon who lived in Lydda and who was about his age.[176] He was also taught by R. Joshua b. Ḥananiah who lived in Peki'in[177] and by Naḥum of Gimzo[178] for the latter of whom every word and letter of the Torah had its significance. Later Akiba was taught by Eliezer who resided in Lydda.[179]

When Akiba had become an accomplished scholar, his own school was in the town of Bene Berak. In an exaggeration, Akiba is credited with being one of the three persons who snatched the Torah from oblivion.[180] Fearing that after the destruction of the temple the Torah would be forgotten,[181] he made a collection arranging material. He is praised for his endeavor to arrange the material properly in Midrash, Halakah, and Haggadah.[182] He sought to eliminate controversies by establishing a correct version. Likely he did not complete his collection, and it was carried forward by disciples. He saved the tradition as a basis for the life and future of his people, organizing the people and organizing the Torah.

The tradition compares the teaching method of various teachers. Tarfon is "a

168 *M.ᶜEd.* 7:1; *m.Bek.* 1:6.
169 *B.Nid.* 31a.
170 *M.ᶜEd.* 7:3; *m.Miqw.* 5:5.
171 *M.ᶜEd.* 7:4.
172 *M.ʾAbot* 4:5.
173 *T.Kelim B.Bat.* 2:1–3 (Zuck., 591–92, lines 30–39).
174 *B.Ketub.* 63a.
175 Louis Finkelstein, *Akiba*; Charles Primus, *Aqiva's Contribution to the Law of Zeraᶜim* (Leiden: E. J. Brill, 1977).
176 Finkelstein, *Akiba*, 79; *b.Ketub.* 84b.
177 *B.Sanh.* 32b; *m.Naz.* 7:4.
178 *B.Ḥag.* 12a; Finkelstein, *Akiba*, 89.
179 *ʾAbot R.Nat.* 6; *m.Roš Haš.* 1:6.
180 *Sipre Deut.* 48 (Finkelstein, 112). Alexander Guttmann, "Akiba, Preserver of the Torah," *HUCA* 17 (1942–43) 395.
181 *T.ᶜEd.* 1:1.
182 *Y.Šeqal.* 5 (48c); *ʾAbot R.Nat.* 18.

heap of nuts or stones," and Akiba is "a packed warehouse" (*'ozar balus*) where all is gathered and arranged in proper order.

Though the war with Rome was opposed by Yoḥanan ben Torta, Akiba was the people's leader in the Hadrianic revolt, recognizing Bar Kokhba as the deliverer. R. Tarfon passed on the tradition that Akiba died under persecution with the word "one" in reciting the *Shema'*.[183]

Ishmael ben Elisha had been carried as a child slave to Rome but had been ransomed by Joshua ben Ḥananiah. After becoming a scholar he opposed the methods of exegesis of Akiba and expanded the seven rules of interpretation of Hillel to thirteen. Ishmael had his school at Kefar Aziz on the border of Idumea.[184] He was at Yavneh[185] and at Usha.[186]

R. Tarfon,[187] descendant of priests, was taught by Yoḥanan and came to head schools at Yavneh and Lydda. Tarfon was active in the deposition of Gamaliel, was an opponent of Akiba in some questions,[188] and in others of Joshua.[189]

Simeon ben 'Azzai and Ben Zoma were also contemporaries of Akiba. Simeon ben 'Azzai was recognized as capable, but was never ordained.[190] He handed down the tradition from the seventy-two elders that Song of Songs and Ecclesiastes made the hands unclean.[191] He died young from emaciation; but Ben Zoma went insane from esoteric study.

Levitas of Yavneh, mentioned only once, is quoted as having said, "Be exceedingly lowly of spirit, for the hope of man is but the worm."[192]

The Terminology

First to consider is the matter of terminology. Though it is often said that the Yavneh gatherings did not use the name *sanhedrin*,[193] in extant tannaitic sources, the name *sanhedrin* is applied once to Yavneh gatherings where the *sanhedrin* is described as sitting in a half-circle like a threshing floor so that each elder could see the other. The Prince (*nasi'*) was seated at the center with elders (*zeqenim*) on his right and his left. Eleazar b. Zadok claimed that his father Zadok and one

183 *Y.Ber.* 9.5, 14b.

184 *M.Kil.* 6:4; *m.Ketub.* 5:8.

185 *M.ʿEd.* 2:4.

186 *B.B. Bat.* 28b.

187 Joel Gereboff, *Rabbi Tarfon: The Tradition, the Man, and Early Rabbinic Judaism*, BJS 7 (Missoula, Mont.: Scholars Press, 1979).

188 *M.Ketub.* 5:2; *m.Yebam.* 15:6–7; *m.Ter.* 9:2; *b.Ketub.* 84b.

189 *M.Peʾah* 3:6.

190 *T.Hor.* 1:1 (Zuck., 474); *y.Hor.* 1:1, 5.

191 *M.Yad.* 3:5; 4:2; *m.Zebaḥ.* 1:3.

192 *M.ʾAbot* 4:4.

193 Moore, *Judaism*, 1:85, n. 1; Hoenig, *The Great Sanhedrin*, 10, 146; *m.Roš Haš.* 4:1, 4; *b.Roš Haš.* 31b.

other were on the right in Gamaliel's time with other elders on the left. There were three rows of disciples arranged by rank sitting in front of them.[194]

Lee Levine and David Goodblatt (using the word "council" in a political meaning different from that of the "Council of Jamnia" theory) argue that there was no Judean council claiming national authority between the first and second revolts. Goodblatt points to *m.Soṭah* 9:11; *t.Soṭah* 15:7, and *y.Soṭah* 9:12, 24b as setting forth the cessation of the Sanhedrin, and he feels that *m.Makkot* 1:10 implies the same. He denies that "house of study" or some other term could describe such a council, and concludes "there was no independent national council, or sanhedrin/great court, in the Yavneh of Gamaliel II."[195] He interprets the various allusions to meetings to be the court of Gamaliel whom he identifies as patriarch. Whatever nation-wide jurisdiction the court had derived from Gamaliel its head.

There are also gatherings which are called a *Bet Din*, and such a court of twenty-three is said already to have operated at Yavneh while the *Great Bet Din* still operated in Jerusalem,[196] that is, before 70 C.E.; and there were *bet dins* in other cities. After the destruction of Jerusalem, an arbitration type system operated which sought judgment from learned sages.[197] But Yavneh seems to have assumed the functions of the principal *Bet Din* in the time of Yoḥanan ben Zakkai,[198] Gamaliel II,[199] and Akiba,[200] the last of whom was the outstanding scholar of his day but was never *nasi'*. Controversies before the *Bet Din* are mentioned in the sources.[201] In a Tosefta passage, R. Eliezar bar Zadok declares that when Gamaliel and his court of justice (*Bet Din*) were at Yavneh, they did not take off time to recite the *Shema'* or the benedictions lest they fail to pay attention to the subject before them.[202]

Also used in the sources for gatherings at Yavneh is *bet ha-midraš*,[203] and Rabban Yoḥanan ben Zakkai is said to have had a *bet ha-midraš* in Jerusalem prior to its destruction.[204] Many other cities about the country also had a *bet ha-midraš*. R. Eliezer b. Hyrcanus had a school at Lydda; R. Joshua b. Hyrcanus at Peki'in, R. Akiba at Bene Berak; R. Halafta at Sepphoris; and R. Hanania b. Teradion at Siknin.[205]

194 *T.Sanh.* 8:1, 2 (Zuck., 427).
195 Levine, *Rabbinic Class*, 76–78; Goodblatt, *The Monarchic Principle*, 232–37, 250.
196 *M.Sanh.* 11:4; Josephus (*J.W.* 2:269–71) tells of seven man courts in towns in Galilee.
197 Alon, *The Jews in Their Land*, 1:219–21; *m.Sanh.* 3:1; *t.Sanh.* 6:4 (Zuck., 424).
198 *M.Roš Haš.* 4:4.
199 *B.Roš Haš.* 25a.
200 *B.Ber.* 28a, 40b.
201 *Sipre Deut.* 153, 247.
202 *T.Ber.* 2:6 (Zuck., 4).
203 *M.Yad.* 4:4; *b.Ber.* 27b; *b.Zebaḥ.* 57a.
204 *Y.Meg.* 3:1; cf. *b.Meg.* 27a; *Pesiq. Rab.*, ch. 14 (Friedman, 65b).
205 *B.Sanh.* 32b.

The gatherings at Yavneh are called "the vineyard."[206] It is entirely possible that the meetings were actually in a vineyard. Akiba later taught under a fig tree. However, the term was explained figuratively by Ḥiyya ben Nehemiah of the fourth century who noted that the disciples sat in rows like vines in a vineyard.[207]

A Mishnah text has R. Simeon b. Azzai use "academy" (*yešiva*) for that over which Eleazar was placed when Gamaliel was removed on the day when the Song of Songs and Ecclesiastes were discussed.[208] The terminology continued as a Talmud text also attributes an academy (*yešiva*) to Rabban Gamaliel at Yavneh;[209] and the Aramaic term *methivta*[210] is also used for the gatherings.

In some Talmud texts the meeting place is called an "upper room" (*ʿaliyah*).[211] There is also the "meeting house" (*bet ha-waʿad*).[212] Looking backward, Joshua ben Qebusai spoke of what he heard in the "storehouse" (*ʾoṣer*) of Yavneh.[213] This term is used in this connection only twice in tannaitic literature.[214]

In the sources, the experts at Yavneh are often designated as "elders in Yavneh,"[215] "rabbis of/in Yavneh,"[216] and "scholars/sages of/in Yavneh."[217] The wisdom and piety of the Yavneh figures are magnified in later generations; for example, the piety of Samuel the Little was celebrated by a *bat kol*.[218] Four (R. Eliezer, R. Joshua, R. Akiba, and Simeon the Temanite) were alleged to speak the seventy languages of the world.[219]

The tradition speaks of the study of Scripture,[220] of teaching,[221] and of halakic discussion[222] in the *bet-ha-midraš*. There was no fixed plenary session. Sometimes the full complement of sages was present, sometimes not. In method of

206 *M.Ketub.* 4:6; *M.ᶜEd.* 2:4; *Cant. Rab.* 8.11.2; *t.Yebam.* 6:6 (Zuck., 247); 10:3 (Zuck., 251); *t.ᶜEd.* 1:1 (Zuck., 454); *b.Zebaḥ.* 57a; *b.Ber.* 63b; et al.

207 *Eccl. Rab.* 2:8.1; Israel Abrahams, *Studies in Pharisaism and the Gospels* (2 vols.; Cambridge: Univ. Press, 1924) 2:211, citing *y.Ber.* 4:1 end; cf. Hoenig, *The Great Sanhedrin*, 56.

208 Danby: "college"; *m.Yad.* 3:5; 4:2; *m.Zebaḥ.* 1:3.

209 *B.Sanh.* 32b.

210 *B.Ber.* 27b; see Hoenig, *The Great Sanhedrin*, 292, n. 4.

211 *B.Soṭah* 48b; *b.Sanh.* 11a.

212 *Y.Ber.* 4:1 7c–d; *y.Taᶜan.* 4:1. 67d.

213 *T.Makš.* 3:15 (Zuck., 676); *t.Demai* 1:13, 14 (Zuck., 46).

214 Karl H. Rengstorf, "Der Glanz von Jabne," in Erwin Gräf, ed., *Festschrift Werner Caskel* (Leiden: E. J. Brill, 1968) 235.

215 *T.Kelim B.B.* 5:6 (Zuck., 595).

216 *B.Ber.* 17a; *b.Ketub.* 50a.

217 *B.Giṭ.* 56b; *b.Qidd.* 49b; *b.Zebaḥ.* 57a.

218 *B.Soṭah* 48b; *b.Sanh.* 11a.

219 *B.Sanh.* 17b.

220 *B.Ber.* 63b; *b.B. Bat.* 131b; *Eccl. Rab.* 2.8.1.

221 *B.Yebam.* 42b.

222 *B.Zebaḥ.* 57a.

procedure, the sages (who were themselves quite diverse — rich and poor, lay and priestly, rural and urban) debate, sometimes coming to a consensus without a vote, sometimes voting. The majority prevailed in practice,[223] but minority opinion was not eliminated.[224]

Unlike what was done at the Council of Nicea, the rabbis with few exceptions did not expel those who differed.[225] Neusner pointed out that the sources do not inform us on either the actual nature of the gatherings at Yavneh or on how Yoḥanan enforced or applied the law outside his own household or disciple-circle.[226] None of these terms or descriptions suggest that the Yavneh gatherings justify the use of the Christian terminology like "synod" or "council" for them. Lewis said forty years ago:

> In discussions of the Jabneh gatherings where the canon is not concerned, these terms are commonly translated "academy," "court," or "school." When, however, canon is under consideration, the group suddenly becomes a "council" or "synod." Though these are legitimate renderings of these terms, sixteen hundred years of ecclesiastical usage and twenty-one ecumenical councils have given these latter words certain ecclesiastical connotations of officially assembled authoritative bodies of delegates which rule and settle questions. These terms are not appropriate for Judaism. One's mind immediately thinks of gatherings such as Nicea, Hippo, or Trent. It is a fallacy to superimpose such Christian concepts on Judaism. It is proposed that the terms "court," "school," or "assembly" would more nearly convey the true nature of the body at Jabneh than would terms like "council" or "synod."[227]

Council of Jamnia Theories

CANON

Sid Z. Leiman lent support to the challenge of the hypothesis that the Council of Jamnia closed the Old Testament Canon.[228] While most other discussions concede the challenge, some have merely weakened the terminology to "the so-called council of Jamnia."

There is little new to say in this area of study. The texts to be interpreted

223 *M.ᶜEd.* 1:4–5; *t.ᶜEd.* 1:4 (Zuck., 455); *t.Sukkah* 2:3 (Zuck., 193–94).

224 Alon, *The Jews in Their Land*, 1:311–15.

225 Cohen, "Yavneh Revisited," 58–60.

226 Neusner, "The Formation," 41.

227 Lewis, "What Do We Mean?" 127–28.

228 Sid Z. Leiman, "The Canonization of Hebrew Scriptures: The Talmud and Midrashic Evidence," *Transactions of the Connecticut Academy of Arts and Sciences* 47 (Hamden, Conn.: Archon Books, 1976); see also Robert C. Newman, "The Council of Jamnia and the Old Testament Canon," *WTJ* 38 (1978) 319–49.

have not proliferated. The basic text is *Mishnah Yadaim* 3:5 where the post-discussion figures R. Judah and R. Jose differed over whether Song of Songs and Ecclesiastes render the hands unclean and over which book was the earlier disputed.[229] R. Simeon b. Azzai said, "I have heard a tradition from the seventy-two elders on the day they made R. Eleazar b. Azariah head of the college [of sages] that the Song of Songs and Ecclesiastes both render the hands unclean." Simeon also reports that Bet Shammai denied that Qoheleth makes the hands unclean while Bet Hillel held that it did.[230] Akiba insists that the Song of Songs is the Holy of Holies and affirms that any earlier discussion was over Ecclesiastes. In a Tosefta passage Akiba excluded from the world to come any who used the Song of Songs as a secular song.[231] The Mishnah section ends with R. Yoḥanan b. Joshua asserting that the claim of ben Azzai is true – that is, the sages disputed and decided that both books render the hands unclean. However, the Tosefta has Simeon b. Manasia affirming that the Song of Songs renders the hands unclean but has him stating that Qoheleth is Solomon's wisdom.[232]

According to Rab (220–250 C.E.), inner contradictions were alleged against Qoheleth.[233] Later Amoraim also speak of the problem.[234]

Rab also reports questions about Proverbs but does not assign the discussion to Yavneh.[235] Objections to the book of Esther from the third century Amora Samuel are reported.[236] It is said that Joshua ben Ḥananiah opposed Esther because it was nationalistic and had hatred of other nations. He was rebutted by Eliezer of Modein. Eliezer b. Hyrcanus, Akiba, and others regarded Esther as inspired. There are occasional later doubts expressed.

No text speaks explicitly of apocryphal books being considered or excluded in discussion at Yavneh. Akiba denied those who read "outside books" a share in the world to come.[237] The contention that the Christian Gospels were excluded at Yavneh is to be rejected.[238] Later discussion rejected Sirach, but there is no reason to connect the discussion with a council at Yavneh.[239]

The series of Mishnahs beginning "on that day (*bo bayyom*)" played a crucial role in convincing people that there was a council of Jamnia. The Mishnah has

229 The text has been investigated from a form-critical view by Giuseppi Veltri, "Zur Traditionsgeschichtlichen Entwicklung des Bewustseins von einem Kanon: Die Yavneh-Frage," *JSJ* 21 (1990) 210–26.

230 *M.ᶜEd.* 5:3; *t.ᶜEd.* 2:7 (Zuck., 458).

231 *T.Sanh.* 12:10 (Zuck., 433).

232 *T.Yad.* 2:14 (Zuck., 683); *b.Meg.* 7a.

233 *B.Šabb.* 30b.

234 *Pesiq. Rab. Kah.* 8 (68b).

235 *B.Šabb.* 30b.

236 *B.Meg.* 7a.

237 *M.Sanh.* 10:1.

238 Alon, *The Jews in Their Land*, 1:275–77.

239 *T.Yad.* 2:13 (Zuck. 683); *b.Sanh.* 100b.

R. Simeon b. 'Azzai give a tradition, from the seventy-two elders on the day (*bo bayyom*) that R. Eleazar ben Azariah was appointed head of the academy, that Song of Songs and Ecclesiastes both defile the hands.[240] The series of *bo bayyom* declarations which follows has been considered confirmation of the existence of the council. A Talmud passage declares that each Mishnah which begins "on that day" was discussed on the day of R. Eleazar's appointment.[241] The discussions so headed deal with a footbath which was cracked,[242] an animal offering made under the name of some other offering remaining valid,[243] whether Ammon and Moab must give the poor-man's tithe in the seventh year,[244] and Joshua argued against Gamaliel that Sennacherib had so mixed the races that the prohibition of an Ammonite or Moabite entering the assembly no longer applied. The Ammonite proselyte was accepted.[245] The tractate *'Eduyoth* was also said to have been compiled "on that day."[246] But see also *Mishnah Šabbat* 1:4 where another "on that day" is mentioned referring to a different occasion.

According to S. Z. Leiman,[247] J. N. Epstein (in a work not accessible to me) demonstrated that all *bo bayyom* passages were not discussed on the day of Eleazar's appointment but that the phrase introduces a halakah that was discussed on the same day that the immediately preceding halakah was discussed. While Epstein further argued that, in the case of *Mishnah Yadaim* 4:1, 3, *bo bayyom* may refer to a time when Eleazar was seated among the seventy-two scholars of the academy (a case which makes possible a date as early as 75 C.E.), Leiman concludes that it may refer to his becoming dean of the academy, and that the day may be as late as 115 C.E. The date A.D. 90 for the Council of Jamnia met so frequently in the handbooks is arbitrary and uncertain.

In my opinion, the studies of J. Neusner and his students have made accessible in English the early traditions of the Yavneans; but one does not find in the traditions new light on the canon question. James Sanders speaks of "the need to move away from the peculiar views offered by the Jabneh mentality."[248] D. E. Aune writes of "the council of Jamnia myth."[249] Current scientific treatments of the canon question reject the "Council of Jamnia" theory.[250] I would

240 *M.Yad.* 3:5.
241 *B.Ber.* 28a.
242 *M.Yad.* 4:1.
243 *M.Yad.* 4:2; *m.Zebaḥ.* 1:1.
244 *M.Yad.* 4:3.
245 *M.Yad.* 4:4.
246 *B.Ber.* 28a.
247 Leiman, *Canon and Masora*, 122.
248 James A. Sanders, *From Sacred Story to Sacred Text* (Philadelphia: Fortress, 1987) 13.
249 David E. Aune, "The Origins of the 'Council of Jamnia' Myth," *JBL* 110 (1991) 491–93.
250 Lee M. McDonald, *The Formation of the Christian Biblical Canon* (rev. ed.; Peabody, Mass.: Hendrickson, 1998) 49–50.

agree with Beckwith and others that the case has been adequately refuted[251] and should be allowed to pass forgotten into the limbo of unfounded hypotheses.[252]

STANDARDIZATION OF TEXT

The question of whether the text of the Hebrew Scripture was stabilized in the early period (sometime in the first two centuries) is a different question for those interested in precision from whether it was done about A.D. 90 at the "Council of Jamnia." The fact is that the "Council of Jamnia" is being used as a loose symbol for anything done by Jewish scholars after the fall of Jerusalem. The earliest Scripture version to reflect a fixed text is that of Aquila. On the whole Aquila's underlying text is like the later Masoretic Text.[253]

B. H. Roberts had stated, ". . . there was a standardization of the text, perhaps before the time of our Lord, but more likely after the fall of Jerusalem, and under the guidance of Rabbi Akiba."[254] M. H. Segal, however, saw the standardization of the text as gradual, and on that basis explained the survival of the two Isaiah texts at Qumran. Segal, pointing out that the synod of Jamnia did not deal with the question of the canon as such, stated, "There can be no talk of the fixation of a standard text at Jabneh as a result of a fixing and a closing of the canon."[255]

My concern about the standardization of the text is brought to the fore by assertions in a widely used handbook on the Hebrew Bible:

> As part of the great Jewish revival which marked the decades after the catastrophe of A.D. 70, the canonical status of certain disputed books of the Old Testament was defined at the Council of Jamnia (late first century A.D.), and an authoritative text of the Old Testament was also established. Such a text became a necessity once the canon was defined, and Rabbi Akiba (*ca.* A.D. 55–137) popularized an exegetical method which found significance in the smallest details and peculiarities of the text.[256]

The view is echoed on the popular level in the following:

251 Roger Beckwith, *The Old Testament Canon of the New Testament Church* (Grand Rapids: Eerdmans, 1985) 276.

252 For a historical survey of the question, see Jack P. Lewis, "Jamnia Revisited," in L. M. McDonald and P. Flint, eds., *The Canon Debate* (Peabody, Mass.: Hendrickson, forthcoming).

253 Carl E. Amerding, *The Old Testament and Criticism* (Grand Rapids: Eerdmans, 1983) 111.

254 Bleddyn J. Roberts, *The Old Testament Texts and Versions* (Cardiff: Univ. of Wales Press, 1951) 29.

255 Moses H. Segal, "The Promulgation of the Authoritative Text of the Hebrew Bible," *JBL* 72 (1953) 35–47; repr. in Leiman, *The Canon and Masora*, 285–97.

256 Ernst Würthwein, *The Text of the Old Testament*, trans. E. E. Rhodes (Grand Rapids: Eerdmans, 1979) 15.

> With regard to the establishment of a unified Hebrew text at the Council of Jamnia, we are less well informed than with regard to the canon. However, the facts — that a unified text suddenly became the standard at the end of the first century and that not one copy of a divergent text survived (except the Dead Sea scrolls that had already been hidden when Jamnia convened), indicates clearly that the Council of Jamnia must have taken action in this matter. Moreover, the fact that Aquila, one of Akiba's pupils, soon thereafter produced a new Greek translation that slavishly translated the Hebrew unified text for the use of Diaspora Jews gives credence to the idea that Akiba must have been a key influence in the standardization of the Hebrew text.[257]

It is not within the scope of this paper to attempt to solve all the issues of the very disputed question of the standardization of the Hebrew text. Paul de Lagarde's view that the standardization took place in the first part of the second century and was connected with official activity at Jamnia, especially with that of Akiba, became dominant only to give ground before Paul Kahle's contention that the Masoretes were standardizing rather than inheriting a standardized text. But Kahle still saw the *textus receptus* emerging at Jamnia.[258] However, with the discovery of the Qumran scrolls, new support was claimed for the opinion that a standardization took place in the first century.

M. Greenberg pointed out that Akiba's period went back to Naḥum of Gimzo and that "as early as the time of Herod, Hillel the Elder was already utilizing hermeneutical methods which presuppose a text verbally stable."[259] Segal tried to place the process as beginning as early as immediately after the restoration of the temple service in 164 B.C.E. Frank Cross said,

> In any case between the era of Hillel and the first Jewish Revolt the Masoretic text came into being. . . . The promulgation of the new, standard recension evidently took place sometime near the mid-first century A.D.[260]

More recently Cross has pointed to "the era of Hillel and his disciples in the early first century C.E. for the initiation if not the completion of the recensional labor which fixed the Hebrew text of the Bible."[261]

257 Siegfried H. Horn, "The Old Testament Text in Antiquity," *Ministry* 60 (November 1987) 6.

258 Shmarjahu Talmon, "The Old Testament Text," in P. R. Ackroyd, ed., *The Cambridge History of the Bible* (3 vols.; Cambridge: Cambridge Univ. Press, 1970) 1:174–79.

259 Moshe Greenberg, "The Stabilization of the Text of the Hebrew Bible, Reviewed in the Light of Biblical Materials from the Judean Desert," *JAOS* 76 (1956) 159; repr. in Leiman, *Canon and Masora*, 303.

260 Frank M. Cross, Jr., "The Contribution of the Qumran Discoveries to the Study of the Biblical Text," *IEJ* 16 (1966) 94–95; repr. in Leiman, *Canon and Masora*, 347–48.

261 Frank M. Cross, *From Epic to Canon* (Baltimore: Johns Hopkins Univ. Press, 1998) 217.

The preliminary report of the United Bible Societies in listing periods of the text merely gives, "The Third Phase, consisting of the consonantal text as authorized by Jewish scholars shortly after A.D. 70. This text stage may be called the 'Proto-Masoretic text.'"[262]

It seems to me that the question of whether the text was standardized in the first or second century and the question of whether that took place at "the Council of Jamnia" are two separate questions. The first of these questions I leave to the experts in Hebrew textual criticism. For the second, I point out that we are confronted with an assertion which has no support from ancient texts; which rests upon the assumption that there was such a council which assumption is unsound in itself; and which should not be allowed to become fact by the mere repetition without investigation of the assertion.

CHRISTIANS EXCLUDED

The case that the council of Yavneh originated the *birkat ha-minin* to drive Jewish Christians out of the synagogue rests upon an interpretation of a Talmud passage which speaks of Gamaliel II in Yavneh asking the sages who would formulate (*taqan*) the curse. Samuel the Little did, but the following year had forgotten it though he struggled over it for three hours.[263] Nevertheless, he was not removed from the group, a phenomenon explained by Abaye on the basis that a good man does not become evil.[264] The Jerusalem Talmud states that the sages established the *birkat ha-minin* in Yavneh.[265]

From this text and the fact that Justin,[266] Epiphanius,[267] and Jerome[268] speak of Nazarenes being cursed in the synagogue, S. Krauss in 1893 proposed that the *birkat ha-mimim* must have originally had within it the term *noṣri* (Jewish Christian).[269] Krauss explained the absence of the term in texts by the hypothesis of their elimination by the Christian censor.[270] A Geniza liturgical fragment was found in 1898 which had *noṣerim*.[271] I. Elbogen made this view standard.[272]

262 Dominique Barthélemy, et al., *Preliminary and Interim Report on the Hebrew Old Testament Text Project* (5 vols.; New York: United Bible Societies, 1979) 1:vii.

263 *B.Ber.* 28b–29a; *b.Meg.* 17b; cf. *Num. Rab.* 18:21 which attributes this benediction to 120 scholars many of whom were prophets.

264 *Y.Ber.* 5; hal. 4; fol. 9c.

265 *Y.Ber.* 2:4d; cf. *Num. Rab.* 18:21.

266 *Dialogue with Trypho* 16; cf. 93.

267 *Heresies* 29:9.

268 In Isa 2:18; 49:7; 52:4ff.

269 Samuel Krauss, "The Jews in the Works of the Church Fathers," *JQR* o.s. 5 (1893) 130–32.

270 Krauss, "The Jews," 131ff.

271 Solomon Schechter, "Geniza Specimens," *JQR* o.s. 10 (1898) 654–59.

272 Ismar Elbogen, *Der jüdische Gottesdienst in seiner geshichtlichen Entwicklung* (dritten Auflage, 1931; Hildesheim: Georg Olms, 1962) 36; cf. *MGWJ* 46 (1902) 354f.

It was then repeated by Christian theologians Herford,[273] Parkes,[274] Jocz,[275] Davies,[276] and more recently Matsunaga,[277] as well as by Jewish scholars.[278] A current widely accepted hypothesis considers Yavneh the proper *Sitz im Leben* for the Fourth Gospel.[279] Davies conjectures that the author of the Gospel of Matthew, feeling the necessity to formulate a parallel attraction to Pharisaism at Jamnia, was led to his presentation of a New Moses with a new messianic torah.[280]

After comparing the various extant texts of the *birkat ha-minim*, Peter Schäfer has shown that the variants *minim*, *noṣerim*, and *moṣerim* occur.[281] The term *minim* is frequent in Jewish literature. *Noṣerim* is infrequent: "Why do they not fast on the first day of the Week? R. Yoḥanan said, 'On account of the *noṣerim*.'"[282]

Schäfer proposes from the term *malkut zadon* that the *birkat* was aimed at the Roman powers and that *noṣerim* also should be taken in a political connotation. Though Schäfer recognized that the *birkat* was later relevant to Christian exclusion, he argues that it was not the original purpose.

Kimelman, after surveying the history of discussion of the *birkat ha-minim*, argues that *min* had a different connotation in Palestine and Babylon and at different periods. He finds *min* in tannaitic literature to denote a deviant Jew but not a Gentile.[283] He is not persuaded that *noṣerim* found in the Geniza text (but absent in other texts) is original in the *birkat* text. Kimelman finds a lack of evidence for any formative impact of Christianity on major elements

273 Robert T. Herford, *Christianity in Talmud and Midrash* (London, 1903; repr., Clifton, N.J.: Reference Book Publishers, Inc., 1966) 127–28; "The Problem of the 'Minim' Further Considered," in S. W. Baron and A. Marx, eds., *Jewish Studies in Memory of George A. Kohut* (New York: The Alexander Kohut Memorial Foundation, 1935) 359–69.

274 James Parkes, *The Conflict of Church and Synagogue* (London: Soncino Press, 1934) 78.

275 Jakób Jocz, *The Jewish People and Jesus Christ* (London: S.P.C.K., 1954) 57.

276 William D. Davies, *The Setting of the Sermon on the Mount* (Cambridge: Cambridge Univ. Press, 1964) 275f.; see bibliography in Charles K. Barrett, *The Gospel of John and Judaism*, trans. D. M. Smith (Philadelphia: Fortress, 1975) 47f.

277 Kikuo Matsunaga, "Christian Self-Identification and the Twelfth Benediction," in H. W. Attridge and G. Hata, eds., *Eusebius, Christianity, and Judaism* (Detroit: Wayne State Univ. Press, 1992) 355–71.

278 Alon, *Jews, Judaism*, 1:288–307.

279 James L. Martyn, *History and Theology in the Fourth Gospel* (New York: Harper & Row, 1968) 37–68, 148–50; Frédéric Manns, "L'evangile de Jean, Response chretienne aus decisions de Jabne," *SBFLA* 30 (1980) 47–92; 32 (1982) 85–108. English translation: *John and Jamnia: How the Break Occurred Between Jews and Christians c. 80–100 C.E.* (Jerusalem: Franciscan Printing Press, 1988).

280 William D. Davies, "A Different Approach to Jamnia: The Jewish Sources of Matthew's Messianism," in R. T. Fortna and B. R. Gaventa, eds., *The Conversation Continues* (Nashville: Abingdon, 1990) 392–93.

281 Peter Schäfer, "Die Sogenannte Synode von Jabne: Zur Trennung von Juden und Christen in ersten/zweiten Jh. n. Chr.," *Judaica* 31 (1975) 60.

282 *B. Taʿan.* 27b; see *t. Sanh.* 13:4f. (Zuck., 434).

283 Reuven Kimelman, "Birkat Ha-Minim and the Lack of Evidence for an Anti-Christian Jewish Prayer in Late Antiquity," in E. P. Sanders, et al., eds., *Jewish and Christian Self-Definition*, vol. 2 of *Aspects of Judaism in the Graeco-Roman Period* (3 vols.; Philadelphia: Fortress, 1981) 2:228–30.

of tannaitic Judaism, including the development of rabbinic law, the formation of the Mishnah, the structuring of the liturgy, the closing of the canon, and the major propositions of rabbinic theology.[284] Kimelman concludes that "the *birkat ha-minim* does not reflect a watershed in the history of relationship between Jews and Christians in the first centuries of our era."[285]

Kimelman correctly points out that the Fourth Gospel has nothing about prayers or curses in the synagogue. Furthermore, the one relevant text in Justin Martyr (*Dial.* 137) only speaks of curses "after" the prayers, not during them. Origen only mentions that Jews curse Christ up to the present time, not of Christians being cursed in any connection to the prayers.[286]

William Horbury, after giving a historical survey of the debate about the *birkat*, argues that Schäfer and Kimelman have not taken patristic evidence with adequate seriousness. He finds the *birkat* not decisive in the separation of church and synagogue but sees it giving "solemn liturgical expression to a separation effected in the second half of the first century through the larger group of measures to which it belongs."[287] His stress is on the use of the *birkat*, not on a "Council of Jamnia." Lawrence Schiffmann and Steven Katz also took up this issue.[288] Thus the debate goes on.[289] The relevant text is not contemporary with the event it describes and could have been influenced by later developments. What its original reading was will always be disputed. It only speaks of what happened "before Rabban Gamaliel at Yavneh," using no descriptive term for the nature of the gathering. Most important of all, this text should not influence how Christians and Jews regard each other in the twenty-first century.

Conclusion

One could wish that we knew a great deal more about the Yavneh period than our sources tell us. I would propose that a distinction be made between something happening in the Yavneh period, and even having Yavneh scholars involved

284 Kimelman, "Birkat Ha-Minim," 233.

285 Kimelman, "Birkat Ha-Minim," 244.

286 Kimelman, "Birkat Ha-Minim," 235–36.

287 William Horbury, "The Benediction of the *Minim* and Early Jewish-Christian Controversy," *JTS* n.s. 33 (1982) 19–61.

288 Lawrence H. Schiffman, *Who Was a Jew?* (Hoboken, N.J.: Ktav, 1983) 53–61; Steven T. Katz, "Issues in the Separation of Judaism and Christianity after 70 C.E.: A Reconsideration," *JBL* 103 (1984) 43–76.

289 For bibliographies on the twelfth benediction, see S. J. Joubert, "A Bone of Contention in Recent Scholarship: The 'Birkat Ha-Minim' and the Separation of the Church and Synagogue in the First Century A.D.," *Neotestamentica* 27 (1993) 351–61; Pieter W. van der Horst, "The Birkat Ha-minim in Recent Research," in *Hellenism, Judaism, Christianity* (2nd ed.; Leuven, Belgium: Peeters Press, 1998) 113–24.

in it, and a "council" or "synod" of Yavneh. Samuel Sandmel warned against the notion that Jamnia was a sort of modern convention during which rabbis debated an agenda and reached binding decisions by vote.[290] One does not wish to commit a fallacy in assuming that what is not attested could not have happened. However, in the face of our lack of specifics in the three areas we have considered, would it not be an act of wisdom to admit ignorance rather than having unsupported hypotheses become fact by their mere repetition? Henry Cadbury reminded us that "what begins as a very tentative guess becomes by repetition an assumed fact and represents "the consensus of scholarly opinion."[291]

290 Samuel Sandmel, *The Hebrew Scriptures* (New York: Knopf, 1963) 14, n. 6.

291 Henry Cadbury, "Some Foibles of New Testament Scholarship," *JBR* 26 (July 1958) 213.

The Reconstruction of the *Mekhilta of Rabbi Shimon b. Yoḥai*

A Reexamination

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Over the past century, the *Mekhilta of Rabbi Shimon b. Yoḥai* has been subject to disproportionately little scholarly consideration compared with its tannaitic counterparts. This is due primarily to sustained scholarly concern about the reliability of the text, which was reconstructed first by D. Hoffmann, and subsequently by J. N. Epstein and E. Z. Melamed, through highly complex processes from a large number of diverse sources.

An analysis of these reconstructions reveals, however, that a common thread of editorial processes, guided by a common core of assumptions about early rabbinic textuality, binds together *all* the textual editions of the tannaitic midrashim. The question begs, therefore: why has the validity of the *Mekhilta of Rabbi Shimon b. Yoḥai*, in particular, come into question? The crux of the issue is the nature of the evidence available to Hoffmann and Epstein-Melamed for use in the construction of their editions of the text. A particular reason for skepticism is their reliance upon *Midrash ha-Gadol* as a source for textual material.

However, a detailed examination and comparison of tractate *Pisḥa* in both editions of the *Mekhilta of Rabbi Shimon b. Yoḥai* reveals a high degree of correspondence between the various manuscript materials and *Midrash ha-Gadol*, and makes it possible to appraise more fully the overall reliability of the tractate in the Epstein-Melamed edition, and to a lesser extent, the reliability of the entire text.

The *Mekhilta of Rabbi Shimon b. Yoḥai* has occupied a most unique and curious role in the past century of critical scholarship on Rabbinic literature. This collection of tannaitic midrashic traditions on the biblical book of Exodus was lost for centuries, leaving modern scholars of Judaism aware of its prior existence only through miscellaneous references and quotations by medieval Rabbinic authorities.[1] At the end of the nineteenth century, however, a process of "reclamation" of this text was initiated through the creative efforts of pioneering scholars such as Meir Friedmann (*Ish Shalom*, 1831–1908)[2] and Israel Levy

1 For a complete delineation of the medieval references to the *Mekhilta of Rabbi Shimon b. Yoḥai*, see D. Z. Hoffmann, *Mechilta de-Rabbi Simon b. Jochai: Ein halachischer und haggadischer Midrasch zu Exodus* (Frankfurt am Main: J. Kauffmann, 1905), Introduction, 3–8; and J. Z. Lauterbach, "The Two Mekiltas," *Proceedings of the American Academy for Jewish Research* 4 (1933) 124–29.

2 See, in particular, M. Friedmann, *Mechilta de-Rabbi Ismäel* (Vienna: J. Holzwarth, 1870), Introduction, 49ff. and Second Supplement, 119ff.

(1841–1917),[3] both of whom postulated and demonstrated that pieces of the text of the *Mekhilta of Rabbi Shimon b. Yoḥai* could be retrieved from medieval midrashic writings and anthologies. It was David Zvi Hoffmann (1843–1921), however, who ultimately took up the tedious task of identifying and assembling the pieces of this missing text, primarily from the thirteenth- or fourteenth-century Yemenite midrashic anthology *Midrash ha-Gadol*. In 1905, Hoffmann published his version of the text, the first major addition to the tannaitic corpus in the history of modern midrashic study.[4]

In the early decades of the twentieth century, as the massive discoveries from the Cairo Genizah were sifted through, a large amount of primary manuscript evidence for the *Mekhilta of Rabbi Shimon b. Yoḥai* became available. As a result, a second version of this text was published in 1955, through the efforts of Jacob N. Epstein and Ezra Z. Melamed.[5] Epstein and Melamed had at their disposal a total of thirteen separate manuscript sources that together comprised approximately seventy-five percent of the reconstructed text. Epstein and Melamed used this new manuscript evidence, along with excerpts from *Midrash ha-Gadol*, to produce an updated, critical edition of the *Mekhilta of Rabbi Shimon b. Yoḥai*, complete with annotations and a critical apparatus of textual variants. Ultimately, their edition not only validated the earlier efforts of Hoffmann, but also immediately supplanted his edition as the one most suitable for scholarly inquiry and investigation.

Thus, the text of the *Mekhilta of Rabbi Shimon b. Yoḥai* as we possess it today, pieced together from a disparate group of sources, is the final product of a considerably complex reconstructive process — one that not only reclaimed a text once lost, but also generated simultaneously a high degree of scholarly concern and suspicion about the validity of the very text it reproduced. This history of suspicion is most evident in the relative paucity of scholarship produced on the *Mekhilta of Rabbi Shimon b. Yoḥai* over the past century, particularly when compared to the proportionately copious amount of scholarly effort that has been focused on its tannaitic counterpart, the *Mekhilta of Rabbi Ishmael*. Judging by the amount of attention these texts have attracted, one cannot help but conclude that the world of rabbinic scholarship has come to deem the *Mekhilta of Rabbi Ishmael* worthy of serious and sustained attention, while regarding its tannaitic complement as somehow flawed and deficient.[6]

3 See Israel Levy, "Ein Wort über die 'Mechilta des R. Simon,'" *Jahresbericht des jüdisch-theologischen Seminars* (Breslau: S. Schottlaender, 1889).

4 Hoffmann, *Mechilta de-Rabbi Simon b. Jochai*.

5 J. N. Epstein and E. Z. Melamed, *Mekhilta D'Rabbi Simon b. Jochai* (Jerusalem: Mekize Nirdamim, 1955).

6 It has been suggested to me by more than one individual that it is possible that the *Mekhilta of Rabbi Shimon b. Yoḥai* has been the subject of less scholarly attention because there exists for it no

A crucial question begs consideration, however, before one may comfortably discount or challenge the reliability of the reconstructed *Mekhilta of Rabbi Shimon b. Yoḥai*. Namely, how much is known and understood about the reconstructive processes that resulted in the two editions? Granting that certain aspects of the restorative efforts of these scholars are common knowledge in the circles of rabbinic scholarship, it is highly doubtful that the details of these efforts are well-known or understood, and not without good reason. Such understanding and insight — regarding the minutiae and particularities involved in the creation of a tannaitic textual edition, the shuffling and stitching together of various manuscript sources — is neither easily attained, nor easily presented.[7] But as all scholars of rabbinic texts and tradition must acknowledge, there is much to be learned in the details, particularly when establishing the credibility of a critical textual component. Thus, if one wishes to determine the suitability and reliability of the reconstructed *Mekhilta of Rabbi Shimon b. Yoḥai*, one must delve deeply into the process that led to the text's creation, and avoid making judgments based solely upon a cursory understanding of the facts.

My goal, therefore, in this article is to undertake a sustained examination of tractate *Pisḥa* of the *Mekhilta of Rabbi Shimon b. Yoḥai*, in order to investigate what has differentiated this text from its tannaitic textual counterparts in the eyes of scholars over the past century and a half. As we shall see, the crux of the issue is the nature of the evidence available to Epstein and Melamed for use in the reconstruction and publication of their critical edition of the text. Additionally, I shall examine in great detail the reconstructive processes followed by both Hoffmann and Epstein and Melamed as they produced their editions of the *Mekhilta of Rabbi Shimon b. Yoḥai*. Finally, through an analysis and cross-comparison of the textual constitution of tractate *Pisḥa* in both editions of the *Mekhilta of Rabbi Shimon b. Yoḥai*, I shall show that it is possible to appraise more fully the overall reliability of the tractate in the Epstein-Melamed edition and, to a lesser extent, the reliability of the entire text.

Issues of Methodology

Because this effort will serve to initiate what I anticipate to be a sustained inquiry on my part into the *Mekhilta of Rabbi Shimon b. Yoḥai* and the insights it provides into the textual processes of the nascent rabbinic movement, I feel it is important at the outset to discuss and evaluate some of the methodological

translation into English. Whereas I acknowledge that this could be a contributing factor, I hesitate to adduce it as a major source of reluctance to deal with this valuable tannaitic source among trained scholars of ancient Judaism, most of whom certainly possess the requisite skills to read and analyze the text's contents.

7 A fact that is evidenced by the insufficient explanatory introductions penned by both Hoffmann and Epstein and Melamed to their editions of the texts.

assumptions that not only have fueled much prior research on the tannaitic midrashim, but also play a role in the investigation that follows.

The majority of the scholarship produced over the past century on the *Mekhilta of Rabbi Shimon b. Yoḥai* has focused upon two issues: the reconstruction of the text, and its relationship to the other midrashic texts of the tannaitic corpus.[8] That is, prior research on the *Mekhilta of Rabbi Shimon b. Yoḥai* has been linked intrinsically to research agendas that examined the entire tannaitic midrashic corpus, and has been directed at answering a key set of questions: Why were there multiple tannaitic midrashic collections produced for some of the books of the Pentateuch, and is there evidence available to prove that there once existed two parallel tannaitic midrashic collections for the biblical books of Exodus, Leviticus, Numbers, and Deuteronomy? How can one account for the patterned, editorial differences between these (purported) two sets of texts? Who authored these texts, and what were the motivations that led them to produce separate corpora of parallel midrashic material? For the most part, this scholarship has had as its goal the creation of a working conceptualization that encompasses all the tannaitic midrashim and has been historical in orientation, believing that a comparison of the constituent texts of the tannaitic midrashic corpus can reveal specific historical developments and ideological differences within the nascent rabbinic movement.

However, questions such as these, along with the research they inspired, are laden with a host of fundamental methodological assumptions about the nature of the textual evidence and the functional relationship of early rabbinic society to the texts they produced. In the effort to devise and defend global conceptualizations to encompass and answer these questions, scholars assumed that the critical editions of the texts of the tannaitic midrashim, as we possess them today, are fair and accurate representations of their putative counterparts that circulated in early rabbinic circles. Moreover, this scholarship presumed that each text of the corpus was the product of the redactorial efforts of a single authorship (or single like-minded group of authors). By envisioning each text of the tannaitic midrashic corpus as an authoritative document that expressed the concerns and interests of its specific authorship, scholars throughout the nineteenth and twentieth centuries have attempted to compare these texts in a variety of ways, in order to perceive historical and ideological developments and differences within early rabbinic society. Finally, and most crucially, this previous scholarship on the tannaitic midrashic corpus has, for the most part,

8 This conceptual concern in prior scholarship is most emphatically displayed in D. Z. Hoffmann, *Zur Einleitung in die halachischen Midraschim* (Berlin: M. Driesner, 1886–87); J. N. Epstein, *Mevo'ot le-Sifrut ha-Tannaim* (Jerusalem: Magnes Press, 1957); E. Z. Melamed, *Pirkei Mavo le-Sifrut ha-Talmud* (Jerusalem: Galor, 1973); Chanoch Albeck, *Untersuchungen über die halakischen Midraschim* (Berlin: Akademie-Verlag, 1927); and Chanoch Albeck, *Mavo la-Talmudim* (Tel Aviv: Dvir, 1969).

operated under the assumption that the constituent texts of the corpus represent coherent "compositions," marked by an overall degree of authorial and editorial intention that binds the individual traditions of the text into a whole? This assumption has facilitated comparison of the texts at the global level and, as such, these comparisons have tended to generalize the overall characteristics of the texts.

It is within this methodological paradigm of research, therefore, that scholars have spurned the *Mekhilta of Rabbi Shimon b. Yoḥai*. As a highly reconstructed text, pieced together from a variety of distinct sources, it has been difficult for scholars to envision the version reproduced first by Hoffmann, and then by Epstein and Melamed, as a close representation of its "original." The reconstructed text may be somewhat representational of the text as it once existed, and it may display some of the editorial characteristics that allowed it to be grouped with its parallel counterparts, but its ultimate reliability and completeness had to be called into question.

The consequences of this "documentary" approach of prior research on both the *Mekhilta of Rabbi Shimon b. Yoḥai* and the entire tannaitic midrashic corpus are many. Perhaps the most severe, however, is how this scholarly focus has hampered our ability to situate, examine, and understand the individual traditions that comprise these texts within the cultural milieu in which they flourished and functioned. This scholarship has championed the scribal and chirographic activities of the earliest rabbis, while, at best, paying minimal lip service to their performative and dialogical capabilities and tendencies. By championing the tannaitic midrashim as coherent compositions and completed documents, this prior research on the tannaitic corpus has fostered a conception of rabbinic textuality that revolves primarily around the written, as opposed to spoken, word, and has failed to consider fully the implications of the fact that rabbinic sages *performed talmud torah* aloud as an interactive, dialogical and holy process as much as they read and wrote it.

Currently, this conceptualization of rabbinic textual production is being reconsidered;[10] indeed, my future research on this text will focus on challenging

9 Although the vast research program produced by Jacob Neusner over the past two decades on the tannaitic midrashim is, in many ways, conceptually distinct from the century of scholarship referenced above, it also shares in common these assumptions concerning the documentary coherence of, and purposeful authorship behind, these texts. Given the voluminous nature of Neusner's research, I will highlight here only some representative examples: J. Neusner, *Sifra in Perspective: The Documentary Comparison of the Midrashim of Ancient Judaism* (Atlanta: Scholars Press, 1988); *The Canonical History of Ideas: The Place of the So-Called Tannaitic Midrashim* (Atlanta: Scholars Press, 1990); *Mekhilta According to Rabbi Ishmael: An Introduction to Judaism's First Scriptural Encyclopaedia* (Atlanta: Scholars Press, 1988); and *Judaism and Scripture: The Evidence of Leviticus Rabbah* (Chicago and London: Univ. of Chicago Press, 1986).

10 For a representative example of this type of revisionist scholarship, as well as the dialogue it

this understanding of rabbinic textuality, using the relationship between the *Mekhilta of Rabbi Ishmael* and the *Mekhilta of Rabbi Shimon b. Yoḥai* as an illustrative case study. For the moment, however, my goal is not to question this scholarly approach, but rather to subscribe to it. Only by entering into this textual mindset can we reveal how attitudes and assumptions such as these about the nature of the evidence of the tannaitic midrashim have contributed to forming the scholarly consensus about the *Mekhilta of Rabbi Shimon b. Yoḥai* and its relationship to the other midrashim of the tannaitic midrashic corpus.

That is, in order to conduct this analysis and evaluation of the "reliability" of the text of the *Mekhilta of Rabbi Shimon b. Yoḥai*, we must enter the assumptive world of "strict" textualists, whose conception of rabbinic texts easily conceals as much as it reveals. This is because the attempt to evaluate the "reliability" of the text assumes that rabbinic texts are best envisioned as a series of diachronically produced *documents* — documents with "correct" beginnings, middles and ends, documents whose textual components once followed a "correct" order, and documents produced by rabbinic redactors who purposefully chose to include and exclude various traditions, thus expressing normative judgments through the "works" they created. It was this conceptualization of rabbinic texts that motivated (and to a very large extent, still motivates) much of rabbinic scholarship over the past century. It clearly formed the theoretical basis of the conviction that rabbinic texts in their "original" form could be "recovered" through the philologically-grounded production of "critical" textual editions.

Scholarly Suspicion and the *Mekhilta of Rabbi Shimon b. Yoḥai*

Over the past century and a half, scholars have conveyed their distrust about the accuracy and reliability of the reconstructed *Mekhilta of Rabbi Shimon b. Yoḥai* in both overt and implied fashion. In the first case, some scholars have stated clearly their conviction that the text of the *Mekhilta of Rabbi Shimon b. Yoḥai*, as reconstructed by either Hoffmann or Epstein and Melamed, is in some way flawed, deficient or incomplete. Consider, for example, the comments of Moshe David Herr in his entry "Mekhilta of Rabbi Shimon b. Yoḥai" in the *Encyclopedia*

provokes, see P. Schäfer, "Research into Rabbinic Literature: An Attempt to Define the Status Quaestionis," *JJS* 37 (1986) 139–52; C. Milikowsky, "The Status Quaestionis of Research in Rabbinic Literature," *JJS* 39 (1988) 201–11; and, P. Schäfer, "Once Again the Status Quaestionis of Research in Rabbinic Literature: An Answer to Chaim Milikowsky," *JJS* 40 (1989) 89–94.

Other noteworthy reconsiderations include: M. Jaffee, "How Much Orality in Oral Torah?: New Perspectives on the Composition and Transmission of Early Rabbinic Tradition," *Shofar* 10:2 (1992) 53–72, and "A Rabbinic Ontology of the Written and Spoken Word: On Discipleship, Transformative Knowledge, and the Living Texts of Oral Torah," *JAAR* 65 (1997) 525–49; D. Boyarin, "On the Status of the Tannaitic Midrashim" *JAOS* 112 (1992) 455–65; and, S. Fraade, "Interpreting Midrash 1: Midrash and the History of Judaism," *Proof* 7 (1987) 179–94.

Judaica, in which he succinctly touches upon almost all of the misgivings held by scholars about this text:

> The *Mekhilta of R. Shimon b. Yoḥai* . . . begins with Exodus 3:1, but because of the state of its preservation it is impossible to tell whether it continued expounding each chapter and verse consecutively, and where exactly it ended . . . Originally the Midrash was subdivided into sections and the sections into paragraphs or *halakhot*. Because of its state, however, even the details of its division are not wholly clear . . . D. Hoffmann issued an edition . . . of the Midrash compiled from *Midrash ha-Gadol* on Exodus and containing also several small *Genizah* fragments. Since the author of *Midrash ha-Gadol* did not indicate his sources, however, and also freely adapted and changed, abbreviated and expanded, subdivided and combined them, Hoffmann's edition is far from being a true reflection of the *Mekhilta of Rabbi Shimon b. Yoḥai*. In the course of time . . . J. N. Epstein began to prepare a critical edition . . . based on fragments chiefly from the *Genizah*, and containing extracts from *Midrash ha-Gadol* . . . but the manuscripts contain, it seems, only slightly more than half of the original Midrash.[11]

Herr doubts the accuracy of the reconstructed text for a variety of reasons: he expresses concern about possible omission from the reconstructed text of materials included in the original version; he conjectures that the internal divisions of the reconstructed text are improper; he is troubled by the accuracy of the materials incorporated into the reconstructed text from *Midrash ha-Gadol*; and he notes that the manuscript evidence for the Epstein-Melamed edition accounts for only approximately half of the original text.[12]

Herr, of course, is merely echoing the hesitations regarding the *Mekhilta of Rabbi Shimon b. Yoḥai* held by many scholars. Indeed, the very same scholars who have investigated this text and its relationship to the entire tannaitic midrashic corpus have, at the same time, voiced concerns such as these about the reliability of the reconstructed text. Thus, for example, Melamed states:

> כאמור עסק כל בית-מדרש בכל התורה (למעט ס׳ בראשית), אבל לא כל הקבצים נשתמרו לנו. נשארו בידינו בשלמותם מדרשים אלו: א. מכילתא דרבי בידינו בשלמותם מדרשים אלו: א. מכילתא דרבי ישמעאל, ב. ספרא הוא תורת כהנים, ג. ספרי במדבר, ד. ספרי דברים.[13]

11 M. D. Herr, "Mekhilta of R. Simeon b. Yoḥai," *EncJud* 11:1269–70.

12 Although how he is able to make this estimation, immediately after declaring a lack of certainty about the original extent of the text, is uncertain and reveals some logical inconsistency.

13 E. Z. Melamed, *Pirkei Mavo le-Sifrut ha-Talmud*, 179. Emphasis added.

The implication here, of course, is that the evidence available for the other "fragmentary" tannaitic midrashim is, at best, incomplete. Sentiments similar to these can be found in the writings of Chanoch Albeck[14] and Jacob N. Epstein,[15] to name but two.

These, then, are examples of overt, explicit remonstrations against the "completeness" and "reliability" of our reconstructed *Mekhilta*. The second form of scholarly distrust towards this text, conveyed silently and by implication, is, naturally, more difficult to illustrate. However, I would argue that, if not for a reluctance by scholars to bestow their imprimatur upon this text, how can one account for the overwhelmingly disproportionate amount of scholarly attention placed upon this text's tannaitic counterpart, the *Mekhilta of Rabbi Ishmael*?[16] Why is it that, over the past century, the *Mekhilta of Rabbi Ishmael* has been the recipient of consistent scholarly consideration, serving as the subject matter for a vast array of publications, while its tannaitic counterpart has received, by comparison, a rather meager amount of attention? There can be but one

14 Chanoch Albeck, *Untersuchungen über die halakischen Midraschim*, 151–57.

15 J. N. Epstein, *Mevo'ot le-Sifrut ha-Tannaim*, 727–40.

16 It would, of course, be impractical for me to attempt to provide a comparison of bibliographical references here to make this point, and I am assuming that virtually all scholars of rabbinic literature would agree that scholarly consideration of the *Mekhilta of Rabbi Ishmael* easily outweighs that of the *Mekhilta of Rabbi Shimon b. Yoḥai*. However, for the benefit of those who would doubt this point, I would adduce, simply as cursory proof, the bibliographies for these texts provided with their entries in both the *Encyclopedia Judaica* and H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash*, trans. Markus Bockmuehl (2d ed.; Minneapolis: Fortress Press, 1996).

Fortunately, it appears that the *Mekhilta of Rabbi Shimon b. Yoḥai* is currently generating some renewed interest in scholarly circles. In particular, I note the past and most recent work of Menahem Kahana. Kahana has devoted the greater part of his research efforts to the tannaitic midrashic corpus, especially toward amassing all the available manuscript evidence available for each textual component of the corpus, as well as toward revealing the inadequacies of the current critical editions of the individual tannaitic midrashic texts. Representative examples of Kahana's work include "Another Page from the Mekhilta of R. Simon b. Yoḥai" (Heb.), *Alei Sefer* 15 (1989) 5–10; "The Critical Editions of the Mekhilta de-Rabbi Ishmael in the Light of the Geniza Fragments" (Heb.), *Tarbiz* 55 (1986) 489–524; and "New Fragments of the Mekhilta on Deuteronomy" (Heb.), *Tarbiz* 57 (1988) 165–201.

Most recently, Kahana has published *The Two Mekhiltot on the Amalek Portion* (Heb.) (Jerusalem: Magnes Press, 1999), devoted, in part, to an in-depth comparison of the aggadic portions of tractate *Amalek* in both the *Mekhilta of Rabbi Shimon b. Yoḥai* and the *Mekhilta of Rabbi Ishmael*. In this work, Kahana presents detailed criticisms of all the current critical editions of the *Mekhilta of Rabbi Shimon b. Yoḥai* and the *Mekhilta of Rabbi Ishmael*, and underscores his criticism by presenting new manuscript evidence for these texts that has surfaced only in recent years. Kahana also provides in this work a side-by-side, updated "mini" critical edition of tractate *Amalek* from both of these texts, in which he attempts, among other things, to establish the most reliable readings of difficult passages by means of careful philological and text-critical analyses. Finally, based upon his assessment of tractate *Amalek* in both texts, Kahana argues that the *Mekhilta of Rabbi Ishmael* should be viewed as the "primary" or "original" of the two parallel texts.

answer; namely, the *Mekhilta of Rabbi Ishmael* has come to be regarded as the "better," "more complete" and "more reliable" of the two and, thus, more worthy of critical evaluation.

Therefore, at the core of both overt and implied reservations about the *Mekhilta of Rabbi Shimon b. Yoḥai* is the concern that the reconstructive efforts of both Hoffmann and Epstein and Melamed resulted in an edition of the text that, in some way, is not on par with the other components of the corpus to which it belongs. This concern, however, requires scrutinization for a number of reasons.

First, the conviction that the *Mekhilta of Rabbi Shimon b. Yoḥai* is faulty by comparison with the other components of the corpus implies that the opposite is true; namely, that the other components of the corpus are "whole" and "complete." That is, if one argues that the reconstructed *Mekhilta of Rabbi Shimon b. Yoḥai* is to be distrusted because it is missing portions of the "original" text, or because its constituent traditions were garbled and shuffled by the redactor of *Midrash ha-Gadol*, then, in effect, one argues that this is not the case (or at the very least, not nearly as severely the case) with its more accepted canonical counterparts.

Second, it is most likely the case that many scholars question the validity of the reconstructive process used to produce the *Mekhilta of Rabbi Shimon b. Yoḥai* without a complete awareness and understanding of how that process was conducted and what it entailed. How severely did the editor of *Midrash ha-Gadol* manipulate and alter the traditions from this text? How successfully did Hoffmann, Epstein and Melamed identify the proper passages from *Midrash ha-Gadol* for inclusion in their reconstructed texts? How much manuscript material is included in Epstein and Melamed's edition? Indeed, the answers to questions such as these could validate the suspicions generated by this reconstruction; however, they could also serve to mollify and assuage these concerns.

Finally, we need to examine the extent to which the reconstruction of the *Mekhilta of Rabbi Shimon b. Yoḥai* serves to differentiate it from its tannaitic midrashic counterparts. How radically different are the processes that led to the reclamation of this text from the processes that produced the editions of the other tannaitic midrashim? Is it, perhaps, the case that *all* editions of the tannaitic midrashim are the end products of reconstructive processes much like that which produced the *Mekhilta of Rabbi Shimon b. Yoḥai*? Are those scholars who distrust the validity of the *Mekhilta of Rabbi Shimon b. Yoḥai*, perhaps, focusing so much attention on the differences between the production of this text and that of its counterparts that they are, thereby, turning a blind eye to the similarities?

It is with issues such as these in mind that we now focus our attention on a critical examination and evaluation of the reconstructive processes that

produced both editions of the *Mekhilta of Rabbi Shimon b. Yoḥai*. At the very least, we hope to gain a more enlightened perspective on the constitution of this text. It is possible, however, that this examination might also compel us to question our perceptions of the "reliability" and "accuracy" of not only this text, but of the other tannaitic midrashim as well.

The Reconstructive Processes

Initially we must consider the sources that were used to reconstruct the two versions of the *Mekhilta of Rabbi Shimon b. Yoḥai*, as well as the correlation between these two versions. Hoffmann chose to reconstruct his edition almost entirely from excerpts gleaned from *Midrash ha-Gadol*, notwithstanding his awareness that manuscript evidence of the text was being discovered among the findings from the Cairo Genizah. In fact, Hoffmann did incorporate into his edition three sets of fragments from the Genizah that had been brought to his attention,[17] but he did so only in the form of textual emendations and additions to the "base" materials taken from *Midrash ha-Gadol*,[18] for some unstated reason choosing not to incorporate these fragments in their entirety. In addition to *Midrash ha-Gadol* and the fragments listed above, another small, but extremely significant, source for Hoffmann were the excerpts from the *Mekhilta of Rabbi Shimon b. Yoḥai* commonly referred to as הגהות רב אברהם הלחמי.[19] Detailed information about these excerpts is scarce, and the available information somewhat apocryphal in nature, as we shall see.

These materials first appeared in print in the 1844 Vilna edition of the *Mekhilta of Rabbi Ishmael*, where they are appended at the end under the title מכילתא פרשה שמות וארא.[20] In his introduction to that edition, R. Isaac E. Landa describes how they came into his possession.[21] According to Landa, these midrashic traditions were transcribed in manuscripts possessed by a certain *gaon*,

17 Oxford Fragment #55, Oxford Fragment #63, and a fragment from Cambridge that was subsequently lost.

18 The three instances of textual interpolation of Genizah materials are located at Hoffmann, *Mechilta de-Rabbi Simon b. Jochai*, 12–14, 118–22, and 137–45. See Hoffmann's corresponding footnotes.

19 Most notably, this source contains exegetical traditions to chapters three and six of Exodus, whereas the *Mekhilta of Rabbi Ishmael* begins with interpretation of Ex 12:1. This source, therefore, testifies to the existence of a recension of tannaitic midrashic materials to Exodus *distinct from* the *Mekhilta of Rabbi Ishmael*. Several medieval rabbinic commentators mention the existence of a certain מכילתא דסניא ("Mekhilta of the Bush"), separate from the *Mekhilta of Rabbi Ishmael*. Because the *Hagahot* contain tannaitic midrash to the Burning Bush narrative (Ex 3:1–4:17), they serve to link the so-called מכילתא דסניא with the *Mekhilta of Rabbi Shimon b. Yoḥai*, to which these traditions belong. For more on this point, see Epstein and Melamed, *Mekhilta D'Rabbi Simon b. Jochai*, Introduction, 14.

20 *Mekhilta* (Vilna: 1844) with introduction and running textual commentary entitled ברורי המדות, both authored by R. Isaac E. Landa (יצחק אליה לנדא), 135–6.

21 Landa, editor's Introduction (הקדמת המחבר), 2.

R. Abraham b. R. David ha-Laḥmi (רב אברהם הלחמי), who lived in the sixteenth century. These manuscripts eventually were placed and transmitted among the writings of R. Elijah b. Solomon Zalman, the Vilna Gaon, and were passed along by Elijah's grandson to Landa. Landa chose to append these traditions to the end of his commentary on the *Mekhilta of Rabbi Ishmael*, believing them, perhaps, to be supplemental to that text rather than remnants of a parallel, but distinct, textual recension.[22] The present location of these manuscripts is unknown. S. A. Wertheimer claimed to have viewed a set of manuscripts of these materials, which he included in his 1913 collection ספר אוצר מדרשים כתבי יד; however, at no point in the brief work does Wertheimer offer an explanation of how he came to view these manuscripts or where they were located.[23]

Hoffmann utilized the source materials available to him in a variety of ways as he reconstructed the text. For example, in some instances he incorporated portions from the collection of R. Abraham ha-Laḥmi directly into his version of the text, whereas in other instances he used this collection only to emend or comment upon parallel textual material that he took instead from *Midrash ha-Gadol*. Finally, it should be noted that Hoffmann occasionally emended and commented upon textual excerpts in his version of the *Mekhilta of Rabbi Shimon b. Yoḥai* on the basis of parallel versions of traditions located in other tannaitic texts, the Palestinian and Babylonian Talmuds, as well as medieval halakhic compendia.

Unfortunately, Hoffmann formulated his critical apparatus and notes in a most primitive manner,[24] making it extremely difficult not only to tabulate precisely his usage of the source materials outlined above, but also, at times, to understand the rationale underlying his utilization of a given source at any given moment. At the very least, a brief perusal is sufficient to validate what was stated above; it is clear that Hoffmann's reconstruction of the *Mekhilta of*

22 The first scholar to suggest that these traditions belonged rightfully to the *Mekhilta of Rabbi Shimon b. Yoḥai* was Meir Friedmann (מאיר איש שלום), in his edition of the *Mechilta de-Rabbi Ishmael* (Vienna: J. Holzwarth, 1870) 119. Friedmann adds nothing new to Landa's background information, merely appending the textual materials to the end of his edition as he found them in the 1844 version.

23 S. A. Wertheimer, *Sefer 'Oṣar Midrashim Kitvei Yad* (Jerusalem: Achim Lipschitz, 1913). See, in particular, Wertheimer's introduction to these materials, 9–10, where he refers often to the manuscripts "in my possession," without indicating clearly their whereabouts.

24 Hoffmann's effort here was at best minimal. His apparatus consists of voluminous, textually sequential, ad hoc footnotes, which direct the reader's attention to a single grouping of notes at the bottom of the page. Hoffmann displayed no attempt to systematize or logically group and separate his comments based upon criteria of type or concern. Thus, any given footnote within the text could direct the reader's attention to any type of comment, ranging from a reference to a textual parallel, to an indication of a switch in source materials, to a comment by Hoffmann concerning the editorial practices of the redactor of *Midrash ha-Gadol*. Textual variants are not presented. The result is an apparatus that is both tedious and baffling to utilize.

Rabbi Shimon b. Yoḥai is based overwhelmingly upon texts taken from *Midrash ha-Gadol*, aside from the proportionately small segments of the text based directly upon the three sets of fragments at his disposal;[25] and this will be validated by the upcoming close examination of the source materials Hoffmann utilized to reconstruct tractate *Pisḥa*.

Whereas Hoffmann knew of the impending emergence of a significant amount of manuscript materials but chose to publish his reconstruction of the *Mekhilta of Rabbi Shimon b. Yoḥai* before they became readily available, Epstein and Melamed took great pains to incorporate all known manuscript evidence into their subsequent critical edition.[26] At their disposal were a total of thirteen manuscripts;[27] the most important of which was the Firkovich manuscript, accounting alone for a total of 135 out of the 224 pages of their version of the text. Epstein and Melamed incorporated this manuscript evidence to its fullest extent, choosing to use materials from *Midrash ha-Gadol* only when no other attestation was available. The result is an extremely eclectic text, one which stands in sharp contradistinction to that produced by Hoffmann.

The text constructed by Epstein and Melamed, so much more fully based upon manuscript evidence, immediately supplanted Hoffmann's text as the one most suitable for critical research. Nonetheless, considering the very limited amount of scholarship on the *Mekhilta of Rabbi Shimon b. Yoḥai* since the publication of the Epstein-Melamed version (1955), it appears that it has inspired virtually no more confidence among scholars than did Hoffmann's version (published in 1905).[28] Therefore, what follows is a full delineation and explanation of the possible reasons why scholars have distrusted the accuracy and validity of both of these texts, although, because of its superiority, more attention will be placed on such considerations as they apply to the Epstein-Melamed version.

25 Only approximately 16 pages out of 166 in Hoffmann's edition contain *emendations* based on manuscript material, indicating, once again, that Hoffmann chose not to incorporate fully the manuscript materials at his disposal.

26 For a detailed discussion, description, and evaluation of the manuscript materials used by Epstein and Melamed, see Epstein and Melamed, *Mekhilta D'Rabbi Simon b. Jochai*, Introduction, 33–45.

27 Despite the fact that the actual manuscripts were no longer available, they counted and treated as manuscript materials the textual portions attested in the putative manuscript collection of R. Abraham ha-Laḥmi as transmitted by R. Isaac Landa. See Epstein and Melamed, *Mekhilta D'Rabbi Simon b. Jochai*, 2ff.

28 To the best of my knowledge, there exists only one published review of the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai*: Mordecai Margulies, "Mekhilta of Rabbi Shimon b. Yoḥai" (Heb.), *KS* 31 (1956) 155–59. I am grateful to the anonymous reader of this article who provided this reference.

In his review (p. 156), Margulies praised the new version of the text more than once for "restoring once again to our possession in its original form the decisive majority" of the *Mekhilta of Rabbi Shimon b. Yoḥai* ("הוחזרה שוב לידינו בצביונה המקורי ברובה המכריע"). Margulies, therefore,

SOURCES OF DOUBT AND METHODOLOGICAL PROBLEMS

The fact that both texts rely significantly (in Hoffmann's case, almost entirely) upon *Midrash ha-Gadol* for portions of their culled materials has certainly been viewed as problematic by many scholars. Utilization of traditions from *Midrash ha-Gadol* is tantamount to reliance upon second-hand attestation, and even Epstein and Melamed felt compelled to include a considerable amount of materials from *Midrash ha-Gadol* in their text. The potential pitfalls of such a reliance are many.

One of the most problematic aspects of *Midrash ha-Gadol* as a source for the *Mekhilta of Rabbi Shimon b. Yoḥai* is the fact that its constituent traditions were often altered in a variety of ways as they were incorporated into the work by its Yemenite redactor, David b. Amram of Aden.[29] Such alterations include shortening the traditions, altering an individual tradition's internal structure and order, changing key words within the traditions, omitting portions of traditions, shortening or omitting altogether the attribution of a tradition to a named sage, and joining separate traditions into one. Such possibilities did not escape Epstein and Melamed as they fashioned their eclectic text. In his introduction to the text, Melamed writes:

ראינו שבעל מדרש הגדול, או מעתיקו הראשון, השלים פסוקים עד התיבה, שממנה עיקר הראיה, על פי הזכרון. מצד שני . . . מקצר הוא בהלכה ובאגדה. אין דרכו להביא מדרש פעמיים (אפילו בשני ספרים). משנה הוא את סדר המאמרים ואת סדר הפרטים, משנה הוא את לשון ומקצרו. מכנה ומשמיט דברים מפני הכבוד. משמיט הוא דבריו של אחד החכמים במחלוקת. במקום אחד השמיט את דבריהם של כמה תנאים. משמיט הוא דינים ומשא ומתן של תנאים ומסקנות המדרש.

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is optimistic that the reconstructed text represents accurately and fully the "definitive" version of this text that presumably was created by, and used within, early rabbinic communities. This declaration of faith, both unquestioned and unsubstantiated by Margulies, is one of the generative issues I address in this article.

Margulies was less than satisfied, however, with Melamed's incorporation of materials from *Midrash ha-Gadol* into the reconstructed base text for those sections that lacked manuscript evidence, feeling that the decision to include these excerpts sometime was made "without proper deliberation" ("בלא שיקול דעת הראוי," 158). Although Margulies expressed general praise, as well, for the critical apparatus devised by Melamed, he criticized severely Melamed's references to parallel materials in *Midrash ha-Gadol*, feeling them to be cursory, misinformed and incorrect in their assessment of how the redactor of *Midrash ha-Gadol* manipulated the material he chose to incorporate in his anthology (157). Finally, Margulies criticized Melamed for all too often failing to recognize that materials he incorporated from *Midrash ha-Gadol* actually were derived from *Pirkei d'Rabbi Eliezer* (157–58).

29 For an excellent delineation of the numerous ways in which traditions were altered by the redactor of *Midrash ha-Gadol*, as well as for a discussion of the manuscript evidence of *Midrash ha-Gadol*, see Epstein and Melamed, *Mekhilta D'Rabbi Simon b. Jochai*, Introduction, 46–58.

מעביר הוא מדרשים ממכילתא דרבי שמעון בן יוחאי לשמות לספר אחר, ששם מקומו של הכתוב, משום שכאן הובא רק אגב גררא... דרכו להשמיט קטעים ממכילתא דרבי שמעון בן יוחאי ולהכניס במקומם ממקורות אחרים (אפילו מהרמב"ם!) בלשונם או בעיבוד קיצור. יש שהוא מוסיף באמצא לשון מדרשב"י קטעים ממקורות אחרים (משנה, תוספתא, מדר"י, ספרי, ב"ר, מדרש תהילים, ילמדנו, תנחומא, פסיקתות, בבלי ועוד).[30]

Despite this full acknowledgment of the numerous kinds of textual reformulation practiced by the redactor of *Midrash ha-Gadol*, Melamed's extensive exposure to and consideration of the redactor's manner of textual incorporation led him to declare succinctly:

אף-על-פי כן שמר בעל מדרש הגדול על רוב בניינו של מדרשב"י, שהיתה לו לאחד מספרי היסוד שלו למדרש ספר שמות![31]

It was one thing for Melamed to announce apodictically his general faith in the accuracy of the editor of *Midrash ha-Gadol*; it would have been another to offer a full delineation of the proof that served as the foundation of his faith! Unfortunately, such an offering was not forthcoming from Melamed. Surprisingly, Melamed chose to delineate only the alterations made by the redactor of *Midrash ha-Gadol*, a delineation he chose to explicate on a case-by-case basis![32] This serves only to stress the dubious character of the traditions in the Epstein-Melamed version of the text gleaned from *Midrash ha-Gadol*, and causes his remark quoted above concerning the overall reliability of the *Midrash ha-Gadol* materials to appear to be all the more flippant. Given this lack of substantive proof, it is not difficult to perceive how suspicions about the accuracy and reliability of quotations from *Midrash ha-Gadol* within the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai* have seriously hampered the acceptance of the text within scholarly circles.

Another problematic aspect regarding the construction of Epstein and Melamed's version of the text involves the multitude of manuscripts used by the two editors. As noted above, Epstein and Melamed utilized thirteen manuscripts toward the reconstruction of the text. The textual testimonies provided by these manuscripts were utilized to their fullest extent; that is, if manuscript materials were available for any given portion of the text, they were situated completely into the reconstructed base text. This process was in full accord with the standard

30 Epstein and Melamed, *Mekhilta D'Rabbi Simon b. Jochai*, Introduction, 55–56. Emphasis added.

31 Epstein and Melamed, 56. Exclamation point added.

32 Epstein and Melamed, 46–58.

practice followed for the production of most critical editions of ancient rabbinic texts. Given the scarcity of manuscript evidence for ancient texts, the general consensus has been that whatever is available should be utilized.

It is important to note that Epstein and Melamed were not alone in the world of rabbinic scholarship in their reliance upon such a reconstructive methodology. The presentation of the tannaitic midrashim in the form of critical editions has been a primary motivation for much scholarship in the field of rabbinic literature from the end of the nineteenth century to the present;[33] and, more often than not, some degree of eclectic source integration has been the operative principle. A quick glance at the makeup of the "base texts" of the critical editions of the tannaitic midrashim proves well this point:

text	*editor(s)*	*date*	*construction of base text*
Mek. of R. Ishmael	H. S. Horovitz *I. A. Rabin*	1931	Base text: printed edition (mostly Venice 1545). Full critical apparatus/variant listing.
Mek. of R. Ishmael	J. Z. Lauterbach	1933	Base text: mixture of 5 complete manuscripts. Incomplete critical apparatus/variant listing.
Mek. of R. Shimon b. Yoḥai	D. Z. Hoffmann	1905	Base text: mostly excerpts from *Midrash ha-Gadol*; 3 manuscript fragments; excerpts from R. Abraham ha-Laḥmi. No critical apparatus/variant listing.
Mek. of R. Shimon b. Yoḥai	J. N. Epstein E. Z. Melamed	1955[34]	Base text: mixture of 13 manuscripts; excerpts from *Midrash ha-Gadol*; excerpts from R. Abraham ha-Laḥmi. Full critical apparatus/variant listing.

table continues

33 A new critical edition of the *Mekhilta of Rabbi Ishmael* is called for by M. Kahana, "Critical Editions of the Mekhilta de-Rabbi Ishmael," 489–524. In 1986, initial efforts toward such an edition were reported by D. Boyarin, "From the Hidden Light: Towards a Critical Edition of the *Mekhilta of Rabbi Ishmael*" (Heb.), *Sidra* 2 (1986) 5–13. However, Kahana notes in his introduction to *The Two Mekhiltot on the Amalek Portion* that Boyarin's research interests have led him in a different direction, and that Kahana now intends to complete this project. A. Shoshana is currently working on a new critical edition of the *Sifra*, publishing to date *Sifra on Leviticus: According to Vatican Manuscript Assemani 66 with Variants*, vol. 1, *Baraita de-Rabbi Ishmael*; vol. 2, *Nedabah*; vol. 3, *Ḥova* (Jerusalem/Cleveland: 1991).

34 A second edition of the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai* was issued by the same publisher in 1978, with corrections and emendations. More importantly, the new edition incorporated yet another piece of fragmentary manuscript evidence from the collection of the Jewish Theological Seminary of America (J.T.S. ENA 3205.8).

text	*editor(s)*	*date*	*construction of base text*
Sifra Leviticus	L. Finkelstein	1983	Base text: ms. Vatican Assemani 66. Full critical apparatus/variant listing. *Note:* This edition covers only פרשיות נדבה and חובה.
Sifre Numbers	H. S. Horovitz	1917	Base text: mixture of 2 manuscripts and excerpts from *Midrash Hakhamim*. Full critical apparatus/variant listing.
Sifre Deuteronomy	L. Finkelstein	1939	Base text: mostly mixture of 3 manuscripts and 6 fragments from the Genizah; occasional incorporation from medieval midrashic compilations. Full critical apparatus/variant listing.

As the table above illustrates,[35] a general principle of reconstructive eclecticism guided the production of critical editions of most of the individual texts of the tannaitic corpus. The basic assumption underlying all these reconstructions is a simple one: for each document in the tannaitic corpus a single, precise and well-defined textual "whole" (*Urtext*) not only once existed, but also can be retrieved at least partially via a well-balanced, critical utilization of all the available evidence.

Quite naturally, a vast array of questions immediately surfaces concerning the legitimacy of this methodology, including the veracity of the assumptions about the nature of rabbinic textuality and scribal activities that buttress it. How closely do the recreated critical editions match their counterparts that (purportedly) circulated within tannaitic rabbinic circles? Did the earliest rabbis recognize any single compilation of their midrashic traditions as fixed and authoritative? If so, when and how was such recognition bestowed upon a given text, and what type of transmissional relationship existed among the text ultimately deemed authoritative and prior versions? How were these texts utilized as repositories of tradition for the active engagement and manipulation of tradition that constituted the religious training taking place in the *beit midrash*, and what type of religious status did the earliest rabbis grant them?[36]

35 For a more complete exposition of the information in this table, see Strack and Stemberger, *Introduction to the Talmud and Midrash*, 247–75, as well as the introductions to each individual critical edition of the tannaitic corpus.

36 Although my discussion here will be limited to an assessment of the diverse nature of the manuscript evidence used for the reconstruction of the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai*, my long-term research goals with this text will address much broader questions such as these concerning the nature of early rabbinic textuality, scribal activities, and transmission and manipulation of inherited tradition.

Given the fact that most of the critical editions of the tannaitic midrashim are pieced together to some extent from various manuscript materials, one must ask why this has been a source of concern and uncertainty for scholars in the case of the *Mekhilta of Rabbi Shimon b. Yoḥai*, but apparently not in the case of the other critical editions of the tannaitic texts. There are several possible explanations. Perhaps the strongest reason is the fact that the number of manuscript sources (all of which are fragmentary) utilized for the reconstruction of the base text of the *Mekhilta of Rabbi Shimon b. Yoḥai* is considerably larger at thirteen than the number of manuscript sources used for any of the other critical editions of tannaitic midrashim. An interweaving of so many *distinct* manuscript traditions must take into consideration a number of issues, for example: the accuracy and tendencies of each manuscript's scribe; textual overlap and contradiction among corresponding manuscripts; textual lacunae within each manuscript, and so on. This is not to imply that these types of issues were not confronted during the production of all the critical editions of the tannaitic midrashim. However, given the large number of distinct manuscript traditions utilized toward the reconstitution of the *Mekhilta of Rabbi Shimon b. Yoḥai*, and their fragmentary character, these considerations must have become all the more acute and difficult, growing virtually exponentially in complexity as the editors incorporated manuscript after manuscript into the text.

Another possible source of uncertainty concerning the manuscript usage in the *Mekhilta of Rabbi Shimon b. Yoḥai* is the fact that none of the manuscripts is comprehensive, and, thus, none is suitable to serve as a sort of "base" manuscript for the entirety of the text, against which all other sources may be validated or compared. Rather, all the evidence is fragmentary, the most comprehensive being the Firkovich manuscript, fifty-one pages in size, accounting for a little more than half of the reconstructed text. This is in sharp contrast to the other tannaitic midrashim, all of which are attested fully (or in the case of *Sifra* and *Sifre Deuteronomy*, almost fully) in at least one manuscript.[37] The closest textual equivalent for the *Mekhilta of Rabbi Shimon b. Yoḥai* are the materials as they appear in *Midrash ha-Gadol*, but, as discussed above, it is problematic to assume

37 For the *Mekhilta of Rabbi Ishmael* there are two complete manuscripts: *MS Oxford 151* (c. 1291) and *MS Munich, Cod. Hebr. 117* (c. 1435). For *Sifra* there are two manuscripts considered to be authoritative, both of which contain the majority of the text: *Codex Assemani 66* (c. eighth–ninth cent.) in the Vatican Library and *MS Vatican Ebreo 31* (c. 1073). *Sifré Numbers* is attested in its entirety in *MS Rome Assemani 32* (c. tenth–eleventh cent.). Except for traditions corresponding to Deut 32–34, *Sifre Deuteronomy* is also fully attested in *MS Rome Assemani 32*.

In addition to these complete manuscripts, there exists much fragmentary evidence for each component of the tannaitic midrashic corpus. An extremely useful delineation of all such evidence known to date is provided in M. Kahana, *Manuscripts of the Halakhic Midrashim: An Annotated Catalogue* (Jerusalem: Yad Izhak Ben-Zvi, 1995). I am most grateful to the anonymous reader of this article who brought this valuable resource to my attention.

that the traditions were copied directly and accurately by the editor of *Midrash ha-Gadol* from a single, integrated manuscript tradition of the *Mekhilta of Rabbi Shimon b. Yoḥai*.[38]

From a reconstructive and strictly text-critical point of view, the value of a comprehensive manuscript is immeasurable. Such a source was often used as a type of "standard" for the creation of the critical editions of the tannaitic midrashim, and as such, served as the basis for many crucial decisions during the process of textual reconstruction. A base manuscript was often used to justify the ordering of individual traditions, the inclusion or exclusion of other fragmentary evidence, and the interpolation of evidence from non-midrashic sources such as the Palestinian and Babylonian Talmuds. In some cases, a base manuscript was utilized as the actual foundation of the text, with other manuscript evidence either relegated entirely to the marginalia, or integrated only in select situations.[39] However, this reliance upon base manuscripts also serves to reveal some of the key methodological weaknesses inherent in these reconstructive processes. For example, choosing a manuscript to serve as a foundation for a text certainly does not necessarily mean that it is, indeed, the undisputed "best" or "most reliable" witness to the text as it purportedly once existed in an "authoritative" condition. Rather, it was more often the case that a manuscript was deemed to be the standard simply because it was the most extensive one available, or the one in the best condition. One point becomes clear: the attempt to (re)create a critical edition of a text is entirely and overwhelmingly dependent upon the extent of the evidence available, to such a degree that the evidence is able to guide the method, subtly directing and reshaping the assumptions underlying the methodology so as to accommodate that which exists and is available.

Nonetheless, deciding to base a critical edition upon either a single, authoritative manuscript or an eclectic mixture of manuscripts is a necessity when attempting to reconstruct an original text, and, needless to say, no matter what the method or goal in mind, all scholarship on early rabbinism is dependent upon the written evidence to a disproportionate degree. However, no method is so clearly driven and shaped by the evidence as that which purports to be able to create a single version of an early rabbinic text as it once existed, the method which underlies the formulation of the critical editions of the tannaitic

38 However, this very problem, as it concerns the materials from *Sifre Deuteronomy* found in *Midrash ha-Gadol*, is addressed by Louis Finkelstein in his article, "Prolegomena to an Edition of the Sifre on Deuteronomy," *PAAJR* 3 (1931–32) 20–26.

39 An excellent example of this process, albeit not from a critical edition of a tannaitic midrash, is the J. Theodor and Ch. Albeck edition of *Genesis Rabbah* (repr.; Jerusalem: Wahrmann Books, 1965). Theodor chose to base the edition upon *MS British Museum*, Add. 27169, despite the fact that older and better manuscript evidence was available (*MS Vat. Ebr. 30* and *MS Vat. Ebr. 60*). All other evidence was incorporated in the critical apparatus.

midrashim, among them, the *Mekhilta of Rabbi Shimon b. Yoḥai*. Therefore, the fact that no comprehensive manuscript evidence was available for the reconstruction of this text effectively branded it as a particularly flawed product of a flawed methodology, to a certain extent the "black sheep" of the bunch.

The potential difficulties with the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai*, as delineated above, have been separated thus far into two types: issues concerning *Midrash ha-Gadol* and issues concerning manuscript usage. The interaction between these two types during the process of textual reconstruction forms yet another conceivable pitfall. That is, the reconstructed text frequently moves from one source to another, creating what can be described best as textual "seams." These seams, more often than not, represent moments of transitional conjecture on the part of the text's editors, operating as they were under the assumption that it was possible to construct the definitive version of the *Mekhilta of Rabbi Shimon b. Yoḥai*. Whether or not a particular "seam" or transition from one source to another is "valid" most often is impossible to prove, given the fact that the production of these transitions is driven by the state of the materials available to the editors. Thus, any attempt to validate the transitions from one source to the next is, at best, textually self-referential and circular. For example, when one encounters the interpolation of manuscript material into the middle of material drawn from *Midrash ha-Gadol*, the only point of reference for such a decision is the unit of tradition as it exists in *Midrash ha-Gadol*, which can be used to verify that this is the correct place to insert the manuscript fragment. To cite another example, a fragmentary manuscript often ends in the middle of a unit of tradition. The editors, therefore, chose to continue the tradition with materials taken from another source, most often from either *Midrash ha-Gadol* or the traditions credited to R. Abraham ha-Laḥmi. Once again, the genesis and rationale for such an interpolation is the lacuna within the source material itself.

This issue becomes particularly acute when one takes into consideration the copious amount of materials gleaned from *Midrash ha-Gadol* in both the Hoffmann and Epstein-Melamed editions of the *Mekhilta of Rabbi Shimon b. Yoḥai*. While Hoffmann uses this source almost exclusively, Epstein and Melamed substituted various other manuscript materials in the place of the materials from *Midrash ha-Gadol*, thus creating many times the type of "seam" described here.

In conclusion, while considering the many possible problematic issues which arise from the reconstruction of the *Mekhilta of Rabbi Shimon b. Yoḥai*, it is worth noting, once again, that the reconstructive principles underlying the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai* are not, in their entirety, unique ones. By stitching together multiple manuscript sources and incorporating traditions as they appeared in medieval midrashic compilations, Epstein and Melamed were not producing a critical edition of a tannaitic

rabbinic text according to a methodology entirely of their own creation; rather, they were attempting to follow as fully as possible the basic methodologies of reconstruction utilized to produce all the critical editions of the tannaitic midrashim, given the limitations of the source materials available to them. As illustrated above, the production of all the critical editions of the tannaitic midrashim involved many of the same textual manipulations used in the production of the *Mekhilta of Rabbi Shimon b. Yoḥai*, the difference between the *Mekhilta of Rabbi Shimon b. Yoḥai* and its textual counterparts being one of degree.

Equally worthy of consideration (and, eventually, criticism) is the fact that the production of all the critical editions of the tannaitic midrashim was fueled by a common conceptualization of rabbinic textuality, one in which it was proper to assume that the reconstruction of *definitive* compilations of rabbinic traditions was at least partially possible through a philologically-motivated and well-balanced utilization of the source materials at hand. This methodological assumption, more so than the various similarities in reconstructive processes, is the conceptual glue which binds together the individual texts and forms the tannaitic corpus.

Given, therefore, the remarkably large number of *similarities*, both conceptual and procedural, among the individual reconstructive processes which produced the various critical editions of the tannaitic midrashim, the initial problematic outlined at the beginning of this article gains an additional focus and becomes all the more intriguing. As first defined, the problem was focused entirely upon the *text* of the *Mekhilta of Rabbi Shimon b. Yoḥai*; that is, what differentiates the text of the *Mekhilta of Rabbi Shimon b. Yoḥai* from the rest of its tannaitic counterparts and causes scholars to view it with suspicion. As now defined, however, the problem also focuses upon the *methodological assumptions* of these same scholars — assumptions about early rabbinic textuality that prevent these scholars both from acknowledging more fully the similarities between the reconstructive foundations of the *Mekhilta of Rabbi Shimon b. Yoḥai* and the other tannaitic midrashim, and from more fully utilizing the *Mekhilta of Rabbi Shimon b. Yoḥai* in their academic work. Consideration of the second problem awaits further attention in the future. Attention now will be placed upon the feasibility of answering or, at the very least, addressing the first.

PREMISE OF THE RECONSTRUCTION

If the reconstructive foundation of the *Mekhilta of Rabbi Shimon b. Yoḥai* is, indeed, as unstable as the discussion above leads one to believe, then we must ask if any means are available to shore it up. Whereas a superficial glance at the text results in skepticism and reservation, is it possible, perhaps, through a careful (and often tedious) examination of the source materials utilized by the editors in their reconstruction of the *Mekhilta of Rabbi Shimon b. Yoḥai*,

to validate more fully their final product? Needless to say, an examination of the source material with such a goal in mind is laden with methodological assumptions, and only if these are acknowledged can the results of such an investigation be of any value. At the outset one must delineate the expectations and limitations of such an endeavor.

As discussed above, the most problematic aspect of the reconstructed *Mekhilta of Rabbi Shimon b. Yoḥai* is its significant dependence upon materials gleaned from *Midrash ha-Gadol*. Determining the precision of these materials as transmitted by the redactor of *Midrash ha-Gadol*, who presumably worked from a manuscript of the *Mekhilta of Rabbi Shimon b. Yoḥai*, would be a major step toward determining the overall reliability of Epstein's and Melamed's edition. Although Hoffmann's edition is of little critical use, having been supplanted by that of Epstein and Melamed, it can contribute significantly to our inquiry here since Hoffmann relied almost entirely upon *Midrash ha-Gadol* for his materials, while Epstein and Melamed used multiple sources, including *Midrash ha-Gadol*, manuscript materials, and the traditions of R. Abraham ha-Laḥmi. Thus, a close comparison of the materials as they appear in the Hoffmann version of the text (with *Midrash ha-Gadol* serving as their source) with their parallels in the Epstein-Melamed version (stemming from a variety of sources) can serve to verify the overall accuracy of all the materials that have *Midrash ha-Gadol* as their source, in the following manner. Assuming that the materials in the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai* which stem from manuscript sources are "accurate" and "reliable," a careful comparison of these portions with their counterparts in the Hoffmann version of the text (which stem from *Midrash ha-Gadol*) will serve to inform concerning the overall accuracy and reliability of all the traditions from the *Mekhilta of Rabbi Shimon b. Yoḥai* found in *Midrash ha-Gadol*.[40] Stated differently, if a detailed examination reveals that the portions of the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai* gleaned from manuscript witnesses correspond closely and accurately to their counterparts in the Hoffmann version of the text that have as their source *Midrash ha-Gadol*, one may reasonably assume that the sections of the Epstein-Melamed version taken directly from *Midrash ha-Gadol* are equally as accurate.

In fact, an in-depth analysis and examination of the relationship and correspondence between the versions of the *Mekhilta of Rabbi Shimon b. Yoḥai* produced by both Hoffmann and Epstein-Melamed can serve, at the very least,

40 This assumption that manuscript versions of rabbinic traditions, none of which can be dated earlier than the ninth or tenth century C.E., are "accurate" and "reliable," although methodologically questionable, is to some degree the basis of any approach to the study of rabbinic literature. In the case of the strictly textual approach that is being considered and examined in this article, this assumption figures with overwhelming force.

to address partially many of the textual concerns outlined above.[41] This type of examination will reveal the idiosyncracies of each individual piece of manuscript evidence, disclosing any patterns of congruence or differentiation vis à vis all the other evidence available. Does a particular manuscript tradition tend to differ significantly from *Midrash ha-Gadol* in its presentation of the traditions, whereas all the other manuscripts tend to confirm the materials in *Midrash ha-Gadol*? Were the traditions in *Midrash ha-Gadol* significantly altered by Epstein and Melamed as they were incorporated into the text, perhaps shortened or "neatened" to allow for smooth transitions between materials drawn from *Midrash ha-Gadol* and manuscript sources? Did Epstein and Melamed significantly alter any of the evidence as they incorporated it into their text, perhaps basing such decisions upon textual parallels in other rabbinic documents? If so, how frequently did they do so? The only way to begin to address these questions, even partially, involves the type of in-depth textual analysis mentioned briefly above, and described in detail below.

Unfortunately, this type of examination is somewhat tedious to conduct, and it is also difficult to present the results of such an effort. For an endeavor such as this involves dissecting the texts of Hoffmann and Epstein-Melamed into individual textual units, often basing the borders of the dissection upon transitions in source materials, and closely comparing and contrasting the textual characteristics and peculiarities of the individual parallel units. These peculiarities can range from those of minor significance, perhaps a word or two spelled differently, or a phrase worded in a slightly different manner, to those of potentially major impact, such as rearrangement of textual units, utilization of different prooftexts, significant differences in phrasing, or deletion of portions of traditions at the hands of the editors. Despite its somewhat onerous nature, however, this type of investigation is crucial towards establishing to any degree of certitude the nature and reliability of the text of the *Mekhilta of Rabbi Shimon b. Yoḥai*.

However, despite its usefulness, this type of investigation can produce only an opaque understanding of the "reliability" of the reconstructed text; it is marred by some dubious, but unavoidable, methodological assumptions. First and foremost, it must be acknowledged that such an approach toward, and utilization of, the sources available is flawed by its circular reasoning. That is, the initial premise that all textual matter evidenced in manuscript form is "accurate" and "valid," followed by an attempt to base the "validity" of other sources, such as *Midrash ha-Gadol* and the traditions attested by R. Abraham ha-Laḥmi,

41 In fact, it is somewhat surprising, as well as frustrating and somewhat reproachable, that the results of such a comparison and delineation were not provided by Epstein and Melamed, who certainly were in an excellent position to present such information. Such an effort would have served to validate Hoffmann's work, and, as we shall see, also would have served strongly to encourage scholarly acceptance of their efforts.

upon their correspondence and affinity to the manuscript sources, is clearly founded upon a circular approach to the materials available: the validity of the text of *Midrash ha-Gadol* becomes based upon its correspondence to the available manuscripts, and the validity of the available manuscripts is, thereafter, judged by their correspondence to *Midrash ha-Gadol*. As mentioned above, however, this type of reasoning, flawed as it may be, is at the core of any approach to rabbinic literature, and particularly so in the case of one that is as thoroughly focused upon the accuracy of textual materials. It is a commonplace that any scholarly approach to rabbinic textuality and tradition is dependent upon the available written word; as such, the methodological assumption described above is an inevitable starting point.

Moreover, an exercise such as this can result in a conceptualization of the *Mekhilta of Rabbi Shimon b. Yoḥai* that is disproportionately influenced by modern understandings of text and textuality. That is, through an extremely precise examination and comparison of the multiple sources of the *Mekhilta of Rabbi Shimon b. Yoḥai*, one can easily come to dichotimize too severely between early rabbinic oral *talmud torah* (the momentary religious, didactic, cultural and social process of creating, shaping and transmitting rabbinic tradition aloud) and rabbinic *scribal textuality*. The concern placed here upon establishing the overall "veracity" and "completeness" of the *Mekhilta of Rabbi Shimon b. Yoḥai* should not lead one to assume that the two media of rabbinic engagement of tradition — oral and written — were mutually distinct and unaffecting.

A CLOSE EXAMINATION OF THE RECONSTRUCTION

The results of such an examination as the one described above, as applied to tractate *Pisḥa*, the first tractate of the *Mekhilta of Rabbi Shimon b. Yoḥai*, will now be presented. This tractate contains midrashic traditions editorially attached to chapters three, four and six of Exodus in a fragmentary and haphazard manner,[42] as well as materials attached to Exodus 12:1–13:16 in the verse-by-verse, clause-by-clause editorial style that is characteristic of all the tannaitic midrashim. In order to illustrate fully the details of this examination, it will be valuable, for a number of reasons, to begin with an in-depth description of its application to the initial portions of this tractate dealing with chapters three, four and six of

42 These aggadic midrashim, all of which are concerned with the dialogue between God and Moses at the Burning Bush, do not consist of materials applied consecutively to all the verses within these chapters. Rather, as they serve to illustrate and augment the dialogue between God and Moses, they focus upon the occasional verse within these chapters. Finally, it is clear that these midrashim have not been subjected to as complete a redactional treatment as have the subsequent materials in the *Mekhilta of Rabbi Shimon b. Yoḥai*, as evidenced by their numerous incongruities, as well as the rather arbitrary manner with which they are affixed to verses within these chapters of Exodus.

Exodus. In doing so, the process of examination and evaluation will become clear, thus allowing the results of the examination of the entire tractate to be presented in a more succinct and concise manner.

Epstein and Melamed reconstructed this portion of the tractate from two sources.[43] Their primary source was the set of traditions attributed to R. Abraham ha-Laḥmi as it appears in the 1844 Vilna edition of the *Mekhilta of Rabbi Ishmael*. The other source was a fragmentary manuscript (Cambridge Env. C 4a) which they incorporated fully into the text. Hoffmann, in his version of the *Mekhilta of Rabbi Shimon b. Yoḥai*, reconstructs this portion entirely from excerpts taken from *Midrash ha-Gadol*. For the purpose of cross-comparison, it will be helpful to divide this section of the tractate in the following manner:

	Epstein-Melamed	*Source*	*Hoffmann*	*Source*	*Type*
1	1:1–6 (6)*	RAHL	1:1–6 (6)*	MHG	2
2	1:6–15 (9)	RAHL	no parallel	—	5
3a	1:16–20 (4)	RAHL	1:11–2:2 (5)	MHG	3, 2
3b	1:20–2:4 (5)	RAHL	1:6–11 (6)	MHG	3, 4
3c	2:4–6 (2)	RAHL	2:2–5 (4)	MHG	3, 2
4	2:7–8 (2)	RAHL	2:5–6 (2)	MHG	2
5	no parallel	—	2:6–16 (10)	MHG	6
6a	2:8–13 (6)	RAHL	2:16–21, 2:25–28 (10)	MHG	3, 4
6b	no parallel	—	2:22–24 (3)	MHG	6
6c	2:14–22 (9)	RAHL	2:28–3:6 (9)	MHG	2
6d	3:1–4 (4)	Camb.	3:6–8 (3)	MHG	2
6e	3:4–4:3 (16)	Camb.	3:8–21 (14)	MHG	2
6f	4:3–4 (2)	Camb.	no parallel	—	5
7a	4:5–14 (10)	RAHL	4:11–20 (9)	MHG	2
7b	4:15–5:16 (21)	Camb.	4:20–5:6 (19)	MHG	2
7c	6:1–9 (9)	RAHL	5:7–15 (9)	MHG	2
8	6:9–7:9 (26)	RAHL	3:22–4:10 (26)	MHG	3, 2

**page: line (number of lines of text)*

43 This portion of the tractate is found at Epstein and Melamed, *Mekhilta D'Rabbi Simon b. Jochai*, 1–7, line 9. The corresponding materials in the Hoffmann version are found at Hoffmann, *Mechilta de-Rabbi Simon b. Jochai*, 1–5, line 15.

TYPE DEFINITIONS

1 Units are exactly the same in the Epstein-Melamed and Hoffmann editions.

2 Units are essentially parallel in the Epstein-Melamed and Hoffmann versions. May have minor word or spelling differences. Proof texts cited are the same, or extremely close. Exact or nearly exact rabbinic attributions. Units in both versions are the same thematically and in overall content.

3 Units are exactly the same, or essentially parallel, but are placed in different locations in the two editions.

4 Units in the Epstein-Melamed and Hoffmann versions are parallel thematically, but differ in content, e.g., significant thematic and textual expansion, large number of differences in proof texts used or sages cited.

5 Unit is found in the Epstein-Melamed version of the text, but not in the Hoffmann version.

6 Unit is found in the Hoffmann version of the text, but not in the Epstein-Melamed version.

7 Unit is found in both Epstein-Melamed and Hoffmann versions and is identical, and has *Midrash ha-Gadol* as its source.

8 Epstein and Melamed choose to eliminate materials from *Midrash ha-Gadol* that Hoffmann retains.

9 Hoffmann eliminates materials from *Midrash ha-Gadol* which are attested in the Epstein-Melamed version from a manuscript source.

A brief explanation of various aspects of the table is in order. As the first and second columns indicate, the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai* serves as the basis of the table; that is, the division of the text into units is based upon the sequence of the text as it appears in the edition produced by Epstein and Melamed. Various criteria were employed in order to determine how the division into units was to be made. First and foremost, a division was made whenever Epstein and Melamed switched the source of their text (e.g., 6d and 7b). Secondly, regardless of source materials, divisions were made whenever the relationship and characteristic correspondence (as indicated in the table by "Type") between the text in the two editions changed (as will be seen in the complete table presented below). Thus, if there was no change in either the source materials utilized or the relationship between the parallel editions, there was no need for a division. Thus, at times, units for comparison are somewhat lengthy (again, as will be seen in the table below). In order to monitor and

compare the amount of textual material in any given unit, the number of lines of text for each unit is placed in parentheses immediately following the citation of the textual location of each unit (cols. 2 and 4). For example, unit 3b consists of five lines of text in the Epstein-Melamed version and six lines of text in the Hoffmann version.[44] Finally, if for purposes of comparison it was deemed advantageous to subdivide large sections of textual material into smaller parts, this is indicated by affixing alphabetic characters alongside the numerals.

Additional clarification of the various descriptions employed to characterize the relationship between sets of units (designated in the table as "Type") is necessary as well. Some of these descriptions are self-evident, whereas others will require elucidation and illustration by example.

TYPE DESCRIPTIONS

1 The corresponding units are *precisely* identical in both versions of the *Mekhilta of Rabbi Shimon b. Yoḥai*. No differentiations whatsoever exist between the two versions. As one would expect, very few of the corresponding units receive this designation.

2 These units are essentially parallel in both versions, meaning they are thematically the same and are virtually identical in content, exegesis, and interpretive

44 As unit 3b illustrates, presenting the number of lines of text is particularly useful for units that extend over more than one page within a version of the text, where it is unclear precisely how many lines of text are on any given page, and, therefore, what is the overall number of lines within these units.

It is important to note a peculiarity to the line numbering in the Epstein-Melamed version of the text. The editors did not follow a set procedure for line numbering in their edition. For example, they sometimes chose to begin their line numbering anew in the middle of a page, due to a switch in source material usage. When basing their text upon a manuscript, they sometimes chose to base the line numbering upon the pages and lines of the manuscript source. At other times, however, they simply disregarded these procedures, and based their line numbering only upon the actual number of lines on the page in their text, regardless of type of source.

For the purposes of this exercise, I followed what I felt to be the simplest system of line reference. For both versions of the text, I designated the first line on the page as line 1 and continued numerically down the page, regardless of any other consideration. In order to locate a given unit, the reader should do the same, and disregard any line numbering presented by Epstein and Melamed in their version of the text. Hoffmann did not incorporate any line numbering into his version of the text.

Moreover, for the sake of simplicity, I chose not to incorporate "half-lines" into this exercise, which would take into account units which end or begin in the middle of a line. In these situations, I "rounded-up" and gave a line's credit to both units that "share" the line. Thus, whereas tractate *Pisḥa* in the Epstein-Melamed and Hoffmann versions of the text contains precisely 1009 and 984 lines of text respectively, when adding up the total number of lines on a unit-by-unit breakdown (using the number in parentheses), one receives a slightly larger total of 1041 and 1017, again respectively. Given the nature and expectations of the exercise, the adverse effect is statistically negligible.

concern. Were it not for minor wording or spelling differences, the differently worded or unique phrase, the occasional additional biblical prooftext, or the occasional difference in named rabbinic sage, these units would be designated as Type 1. These types of differences do not in any way add to, or detract from, the thematic and substantial parallelism of the corresponding units. Clearly, many of these differences are the result of errors, augmentations, and deletions created by scribal transmission.

The following example, taken from tractate *Pisḥa*, (with underlined portions indicating differences in the two texts) illustrates well this type of correspondence among parallel units. The subject of the interpretation is Ex 12:4.

Epstein-Melamed, page 10, lines 6–19 (Source: Ms. Antonin):

רבי אומר שלשתן נאמרו שכינו(תֵ) זה שכינו שבשדות שכינו זה שכינו שבגגות הקרוב זה הקרוב אל ביתו סמוך לפתח פסח מצ, שכינו קרוב לביתו ואין פסח דורות שכינו קרוב לביתו ר׳ שמע׳ או׳ אף פסח דורות שכינו קרוב לביתו וכל כך לא דברה תורה אלא מפני דרכי שלום שלא יהא אדם מניח אהבו ושכניו מכיריו ומיודעיו ואחד מבני עירו והולך ועושה פסח אצל אחרים שנ׳ טוב שכן קרוב מאח רחוק (משלי כז י) במכסת אין במכסת אלא במנין וכן הוא או׳ ומכסם ליי שנים ושלשים נפש (במדבר לא מ) יכול מצוה לשחטו למנויו ואם שחטו שלא למנויו עבר על מצוה והוא כשר תל׳ לו׳ מכסת תכוסו שנה עליו הכתוב לפסול לתוך שנ׳ איש איש אין לי אלא איש מנ׳ לרבות את האשה ואת הקטן תל׳ לו׳ נפשות אם כן למה נאמר איש מה איש שיכול לאכל כזית אף קטן שיכל לאכל כזית ר׳ יהודה או׳ מה איש שיודע הפרש אכילה אף קטן היודע הפרש אכילה ‹איזו היא הפרשת אכילה› כל נותנין לו אבן וזורקו אגוז ונוטלו

Hoffmann, page 9, lines 2–14 (Source: *Midrash ha-Gadol*):

רבי אומר שלשתן נאמרו שכנו זה שכנו שבשדות (שכנו) זה שכנו שבגגות קרוב זה הקרוב לביתו סמוך לפתח. פסח מצרים שכנו קרוב לביתו ואין פסח דורות שכנו קרוב לביתו ר׳ שמעון אומר אף פסח דורות שכנו קרוב לביתו וכל כך לא דברה תורה אלא מפני דרכי שלום שלא יהא אדם מניח אוהביו ושכניו קרוביו ומכיריו ומיודעיו ואחד מבני עירו והולך ועושה פסחו אצל אחרים לקיים מה שנאמר (משלי כז י) טוב שכן קרוב מאח רחוק: במכסת. אין במכסת אלא מנין וכן הוא אומר (במדבר לא מ) ומכסם לה׳ שנים ושלשים נפש. יכול מצוה לשחטו למנויו ואם שחטו שלא למנויו עבר על מצוה ויהא כשר ת״ל מכסת תכסו שנה עליו הכתוב לפסול. לתוך שנאמר איש אין לי אלא איש מנין לרבות את האשה ואת הקטן ת״ל נפשות אם כן למה נאמר איש מה איש שיכול לאכול כזית אף קטן שיכול לאכול כזית. ר׳ יהודה אומר מה איש שיודע הפרש אכילה אף קטן שיודע הפרש אכילה איזו היא הפרשת אכילה כל נותנין לו ביצה ונוטלה אבן וזורקו:

3 The corresponding units are either Type 1 or Type 2, but are placed at different locations within the two editions.

4 These corresponding units would be designated Type 2, were it not for significant and consequential textual expansions in one of the two parallel versions. That is, the two versions are both somewhat parallel and somewhat different. These differences can include textual expansions that affect the parallelism of the content or theme of the units, a large number of differences in prooftexts cited, or a large number of differently named sages.

The following example (with underlined portions indicating differences) of interpretation of Ex 3:2 illustrates this relationship.

Epstein-Melamed, page 2, lines 8–13 (Source: RAHL):

ר׳ אליעזר בן ערך אומר וכי מפני מה נגלה הקב״ה משמי מרום והיה מדבר עם משה בסנה והלא היה לך(!) ‹יכול המקום שידבר מגבהי עולם› מארזי הלבנון ומראשי ההרים ומראשי הגבעות אלא השפיל הקב״ה את שכינתו ועשה דברו כדרך ארץ שלא יהיו אומות העולם אומרי׳ מפני שהוא אלוה ובעל עולמו עשה דברו שלא כדין. לפיכך כבש הקב״ה את משה ששה ימים ובשביעי אמר לו שלח נא ביד תשלח (שמות ד יג) שנא׳ ויאמר משה אל ה׳ בי ה׳ לא איש וגו׳ (שם י)

Hoffmann, page 2, lines 16–21, 25–28 (Source: MHG):

למה מתוך הסנה ר׳ אלעזר בן ערך אומר מפני מה נגלה הקב״ה משמי מרום והיה מדבר עם משה מתוך הסנה לפי שיכול המקום שידבר מראש הרים ומראש הגבעות מגבהי עולם ומארזי לבנון אלא השפיל עצמו ודבר מתוך הסנה ועליו אמר שלמה (משלי כט כג) ושפל רוח יתמוך כבוד: אי אתה מוצא מן האילנות שפל מן הסנה וכן הוא אומר (תהלים קלח ו) כי רם ד׳ ושפל יראה . . . ויחר אף ד׳ במשה. אמר ר׳ (אליעזר) [אלעזר] בן ערך לא דבר הקב״ה עם משה אלא בדרך ארץ שלא יהיו בזויי העולם אומרים מפני שהוא אלוה ובעל עולם עשה דבריו שלא כדין לכן היה הקב״ה (מכביש) [מכתיש] את משה כל ששת ימים דכת׳ גם מתמול גם משלשום גם מאז דברך אל עבדך ובשביעי אמר לו שלח נא ביד תשלח:

5 A unit is found in the Epstein-Melamed version of the text, but not in the Hoffmann version.

6 A unit is found in the Hoffmann version of the text, but not in the Epstein-Melamed version.

7 The corresponding units are located in both versions of the text, are identical, and both versions utilized *Midrash ha-Gadol* as their source. This designation will aid in the overall evaluation of the extent of usage of *Midrash ha-Gadol*.

8 The corresponding units are taken from *Midrash ha-Gadol* in both versions of the text; however, the decision was made in the Epstein-Melamed version to eliminate portions of the unit that are retained in the Hoffmann version. Most often, Epstein and Melamed argue that the materials are augmentations made by the redactor of *Midrash ha-Gadol*. Moreover, most often these materials are quotations of Mishnaic or Toseftan traditions introduced by the formula "מכאן אמרו."

9 The corresponding units are taken in the Epstein-Melamed version from manuscript materials and in the Hoffmann version from *Midrash ha-Gadol*. For some reason, Hoffmann chose to eliminate portions of the unit. The materials he eliminated are also attested in the parallel unit taken from manuscript materials. These types occur rarely, and are extremely baffling, especially given the fact that Hoffmann did not explain his motivations; he simply eliminated portions that are attested in the source from which he drew the entire unit.

In devising these various representations of the correspondence between the two texts, consideration was given to the fact that the goal of this exercise is to *characterize* the relationship of tractate *Pisḥa* in the two versions of the *Mekhilta of Rabbi Shimon b. Yoḥai*, in order to gain a better understanding of the constitution of the text in the Epstein-Melamed version, as well as to learn more about the reliability of the text as there presented. Thus, these categories, as defined above, were designed to *typify* the various ways in which the two texts are both similar and dissimilar, without becoming bogged down in extreme detail or precision. Their aim is to represent the correspondence between the textual units *sufficiently* to accomplish the goals outlined above, and not to represent the unit-by-unit relationship with absolute or extreme detail. For that, the reader must turn to the texts themselves.[45]

An additional fact requires a bit of elaboration as well; namely, it is possible for a particular unit to be described using more than one type. For example, by definition a unit that is designated as being type 3 (parallel traditions located in different locations of each version) will require an additional designation to more fully describe the correspondence between its correlative parts (e.g., 3a–c, 6a and 8 above). In the full delineation of the correspondence between the two versions of tractate *Pisḥa* which follows, the reader will notice that it was necessary, at times, to use combinations of the descriptions to characterize more closely the relationship between the parallel traditions. Thus, when

45 There the reader will soon discover that these types not only represent extremely well the various corresponding relationships between the two versions of the text, but also serve to describe these situations with remarkable accuracy and clarity, given the broad manner in which they are defined.

summarizing the descriptions used to illustrate the correspondence between the two versions, there will be a greater number of descriptions used than there will be division of units; the relationship will not be one-to-one.

Turning now to an analysis of the table above, the data contained therein are extremely informative. This initial section of the *Mekhilta of Rabbi Shimon b. Yoḥai*, dealing with interpretation of the Burning Bush narrative, consists of 131 lines of text in the Epstein-Melamed version and 135 lines of text in the Hoffmann version. Whereas Hoffmann reconstructs this portion of his text entirely from *Midrash ha-Gadol*, Epstein and Melamed utilized two sources: eighty-eight lines of this section (67%) were gleaned from the traditions attributed to R. Abraham ha-Laḥmi, and forty-three lines (33%) were gleaned from the Cambridge manuscript. A lacuna in the Cambridge manuscript was filled in with ten lines of text taken from RAHL at unit 7a. Two units in the Epstein-Melamed version of the text (2 and 6f), totaling eleven lines (8%), are entirely unattested in the Hoffmann version. Likewise, Hoffmann has two units of text (5 and 6b), totaling thirteen lines of text (10%), that are unattested in the Epstein-Melamed version of the text (i.e, that are found only in *Midrash ha-Gadol*).

The table allows for some interesting comparisons of individual textual components of the overall section at hand. For example, a total of eleven units in the Epstein-Melamed version have R. Abraham ha-Laḥmi as their source. Of these eleven, eight units, totaling sixty-eight lines of text, are designated as Type 2 (essentially parallel, minor differences). Two units, totaling eleven lines of text, are designated as Type 4 (parallel traditions, significant expansion and differences). Finally, one of the units, totaling nine lines of text, is designated Type 5 (unattested in *Midrash ha-Gadol*). A total of four units in the Epstein-Melamed version have the Cambridge manuscript as their source. Three of these units, totaling forty-one lines of text, are designated as Type 2, and one of these units, totaling two lines of text, is designated as Type 5, having no parallel in *Midrash ha-Gadol*.

Therefore, allowing for the fact that this comparison encompasses only a portion of tractate *Pisḥa*, the information above permits some preliminary judgments to be made concerning the reliability of the traditions of the *Mekhilta of Rabbi Shimon b. Yoḥai* as preserved in *Midrash ha-Gadol*. As far as the relationship and correspondence between *Midrash ha-Gadol* and the traditions of R. Abraham ha-Laḥmi is concerned, 77% of the textual material is essentially parallel, allowing for minor and relatively insignificant textual differences, 13% of the material is parallel, but at the same time significantly different, and 10% of the material is entirely unattested in *Midrash ha-Gadol*. Moreover, the redactors of both textual sources have preserved parallel traditions in different order, as indicated by the Type 3 designations at units 3a–c, 6a and 8. The correspondence

between the Cambridge manuscript and *Midrash ha-Gadol* is somewhat more straightforward. In the Cambridge manuscript 95% of the material is essentially parallel with minor differences, and 5% of the material is unattested in *Midrash ha-Gadol.*

OVERALL TRACTATE EXAMINATION

Turning now to an analysis of the entirety of tractate *Pisḥa*, the textual components within this tractate are divided as follows:

	Epstein-Melamed	*Source*	*Hoffmann*	*Source*	*Type*
1	1:1–6 (6)*	RAHL	1:1–6 (6)*	MHG	2
2	1:6–15 (9)	RAHL	no parallel	—	5
3a	1:16–20 (4)	RAHL	1:11–2:2 (5)	MHG	2,3
3b	1:20–2:4 (5)	RAHL	1:6–11 (6)	MHG	4,3
3c	2:4–6 (2)	RAHL	2:2–5 (4)	MHG	2,3
4	2:7–8 (2)	RAHL	2:5–6 (2)	MHG	2
5	no parallel	—	2:6–16 (10)	MHG	6
6a	2:8–13 (6)	RAHL	2:16–21, 2:25–28 (10)	MHG	4,3
6b	no parallel	—	2:22–24 (3)	MHG	6
6c	2:14–22 (9)	RAHL	2:28–3:6 (9)	MHG	2
6d	3:1–4 (4)	Camb.	3:6–8 (3)	MHG	2
6e	3:4–4:3 (16)	Camb.	3:8–21 (14)	MHG	2
6f	4:3–4 (2)	Camb.	no parallel	—	5
7a	4:5–14 (10)	RAHL	4:11–20 (9)	MHG	2
7b	4:15–5:16 (21)	Camb.	4:20–5:6 (19)	MHG	2
7c	6:1–9 (9)	RAHL	5:7–15 (9)	MHG	2
8	6:9–7:9 (26)	RAHL	3:22–4:10 (26)	MHG	2,3
9	7:10–8:16 (28)	MHG	5:16–7:9 (33)	MHG	2
10	8:17–19 (3)	MHG	no parallel	—	5
11	8:20–9:11 (12)	MHG	7:10–8:2 (15)	MHG	1,7 (8)
12	9:12–19 (8)	MHG	8:3–14 (12)	MHG	2,8
13a	9:20–10:6 (10)	MHG	8:15–9:2 (11)	MHG	1,7

**page: line (number of lines of text)*

table continues

	Epstein-Melamed	*Source*	*Hoffmann*	*Source*	*Type*
13b	10:7–10:19 (13)	Antonin	9:2–9:13 (12)	MHG	2
13c	10:20–11:5 (7)	MHG	9:14–20 (7)	MHG	1,7
14	11:6–14 (9)	MHG	9:21–10:3 (10)	MHG	1,7
15a	no parallel	—	10:4–6 (3)	MHG	6,8
15b	11:15–12:2 (6)	MHG	10:7–10:14 (8)	MHG	2,8
15c	12:2–12:8 (7)	Antonin	10:14–10:20 (7)	MHG	1
15d	no parallel	—	10:20–22 (3)	MHG	6,8
16	12:9–21 (13)	MHG	10:23–11:11 (15)	MHG	2
17	12:22–13:13 (15)	MHG	11:12–12:2 (19)	MHG	2,8
18a	13:14–15 (2)	Antonin	12:3–4 (2)	MHG	1
18b	13:16–18 (3)	MHG	12:4–8 (5)	MHG	1,7
18c	no parallel	—	12:8–10 (3)	MHG	6,8
18d	13:19–14:6 (10)	Antonin	12:11–12:19 (9)	MHG	4
19a	14:7–17:2 (57)	Oxford	12:19–14:25 (60)	MHG**	2
19b	17:3–17:8 (6)	MHG	14:25–15:4 (8)	MHG	1,7
20a	17:9–18:13 (30)	Antonin	15:5–15:25 (21)	MHG	4
20b	18:13–18:18 (6)	MHG	15:26–15:32 (7)	MHG	1,7
21a	18:18–20:24 (56)	Antonin	16:1–17:6 (39)	MHG	2
21b	20:25–21:1 (4)	Antonin	17:6–7 (2)	MHG	4
21c	21:1–20 (20)	Antonin	17:7–18 (12)	MHG	2
21d	21:20–24 (5)	Antonin	no parallel	—	5
21e	21:24–22:1 (4)	Antonin	17:18–20 (3)	MHG	2
22a	22:2–5 (4)	MHG	17:21–25 (5)	MHG	1,7
22b	no parallel	—	17:25–18:2 (3)	MHG	6,8
22c	22:5–10 (6)	MHG	18:2–8 (7)	MHG	2,8
23a	22:11–14 (4)	MHG	18:9–13 (5)	MHG	1,7
23b	22:14–23 (10)	Antonin	18:14–19 (6)	MHG	4
24a	23:1–12 (12)	Firk.	18:19–19:2 (8)	MHG	4
24b	23:12–25:12 (48)	Firk.	19:2–20:16 (42)	MHG	2
24c	25:12–15 (4)	Firk.	no parallel	—	5
24d	25:15–27:19 (56)	Firk.	20:16–22:18 (57)	MHG	2

***(emended with Ms.Oxford)*

	Epstein-Melamed	*Source*	*Hoffmann*	*Source*	*Type*
24e	no parallel	—	22:19–22 (3)	MHG	6
24f	27:20–29:3 (28)	Firk.	22:22–23:16 (27)	MHG	2
24g	no parallel	—	23:16–17 (2)	MHG	6
24h	29:3–10 (8)	Firk.	23:18–24 (7)	MHG	2
24i	no parallel	—	23:24–30 (7)	MHG	6
24j	29:10–30:25 (40)	Firk.	23:30–24:33 (36)	MHG	2
24k	30:25–31:3 (4)	Firk.	24:33–34 (2)	MHG	2,9
24l	31:4–32:4 (25)	Firk.	25:1–23 (23)	MHG	2
24m	32:4–6 (2)	Firk.	no parallel	—	5,9
24n	32:6–34:2 (41)	Firk.	25:23–27:5 (40)	MHG	2
24o	34:3–4 (2)	Firk.	no parallel	—	5,9
24p	34:4–17 (14)	Firk.	27:6–17 (12)	MHG	4
24q	34:17–26 (9)	Firk.	27:18–24 (7)	MHG	1
24r	34:26–35:13 (14)	Firk.	27:25–28:4 (10)	MHG	4
24s	35:13–16 (4)	Firk.	28:5–8 (4)	MHG	1
25a	35:17–19 (3)	MHG	28:8–10 (3)	MHG	1,7
25b	no parallel	—	28:10–11 (2)	MHG	6,8
25c	35:19–20 (2)	MHG	28:12–13 (2)	MHG	1,7
26	35:21–36:17 (22)	MHG	28:14–29:10 (25)	MHG	1,7
27a	no parallel	—	29:11–12 (2)	MHG	6,8
27b	36:18–25 (8)	MHG	29:12–22 (11)	MHG	1,7
28a	36:26–37:1 (3)	MHG	29:23–26 (4)	MHG	1,7
28b	no parallel	—	29:26–30:3 (6)	MHG	6,8
28c	37:2–37:12 (11)	MHG	30:3–15 (13)	MHG	2
29	37:13–38:5 (16)	MHG	30:16–31:6 (19)	MHG	1,7
30	38:6–15 (10)	MHG	31:7–32:4 (11)	MHG	2
31	38:16–19 (4)	MHG	32:5–9 (5)	MHG	1,7
32a	38:20–25 (6)	MHG	32:10–16 (7)	MHG	1,7
32b	39:1–14 (14)	Firk	32:16–27 (12)	MHG	2
32c	39:14–20 (7)	Firk.	32:27–33:3 (8)	MHG	4
32d	39:20–22 (3)	Firk.	33:4–5 (2)	MHG	1

table continues

	Epstein-Melamed	*Source*	*Hoffmann*	*Source*	*Type*
32e	39:22–40:3 (8)	Firk	33:6–13 (7)	MHG	2
32f	40:3–8 (6)	Firk.	33:14–18 (4)	MHG	1
32g	40:8–42:3 (47)	Firk.	33:19–34:29 (38)	MHG	2
32h	no parallel	—	34:29–35:3 (5)	MHG	6
32i	42:3–6 (4)	Firk	35:3–5 (3)	MHG	1
32j	No Parallel	—	35:5–11 (7)	MHG	6
32k	42:6–12 (7)	Firk.	35:12–16 (5)	MHG	1
32l	42:12–43:6 (20)	Firk.	35:17–27 (11)	MHG	4
32m	43:7–16 (10)	Firk.	35:28–36:5 (9)	MHG	2
32n	43:17–44:3 (14)	Firk.	36:5–14 (9)	MHG	4
32o	44:3–18 (16)	Firk.	36:15–37:9 (13)	MHG	2

We will begin with a consideration of the overall relationship and correspondence between the two versions of the tractate, and thereafter focus attention upon the peculiarities of each individual textual source vis à vis *Midrash ha-Gadol*. The table contains a great amount of information; therefore, it will be helpful to begin with the following consolidation:

Overall Breakdown of Types

type	*units*	*E-M lines*	*Hoff. lines*
1	8	42 (4%)*	34 (3%)*
1,7	17	125 (12%)	149 (15%)
2	29	630 (61%)	580 (57%)
2,3	3	32 (3%)	35 (3%)
2,8	4	35 (3%)	46 (4%)
2,9	1	4 (<1%)	2 (<1%)
4	10	135 (13%)	96 (9%)
4,3	2	11 (1%)	16 (2%)
5	5	23 (2%)	
5,9	2	4 (<1%)	

**number of lines of text (percentage of whole)*

type	*units*	*E-M lines*	*Hoff. lines*
6	7		37 (4%)
6,8	7		22 (2%)
totals	*95*	*1009 (1041)***	*984 (1017)***

***the larger number of lines in parentheses double counts partial lines resulting from my breakup of the text into separate units (see n.44).*

Overall, the correspondence between the Epstein-Melamed and Hoffmann versions of tractate *Pisḥa* is both astonishing and encouraging. As expected, a relatively small amount of the tractate is identical (Type 1) in the two versions, with 16% of the Epstein-Melamed version (25 units, 167 lines of text) matching the parallel portions precisely in the Hoffmann version. Moreover, the majority (17 units, 125 lines, 12% of the E-M text) of these identically parallel portions are those which have *Midrash ha-Gadol* as their source in both versions (Type 7), and, thus, one would expect these units to be marked by such precision.

By far and away, the majority of the textual materials in both editions is essentially parallel, with minor differences (Type 2). A combination of all Type 2 units reveals that 67% of tractate *Pisḥa* in the Epstein-Melamed version (37 units, 701 lines of text) corresponds with the parallel portions in the Hoffmann version in this manner. Of these materials, a small percentage (3 units, 32 lines of text, 3% of E-M text) of the text is essentially parallel, but situated in different order in either text (Type 2,3). Likewise, a small percentage (4 units, 35 lines of text, 3% of E-M text) is essentially parallel, except for material Epstein and Melamed excluded claiming it was added to *Midrash ha-Gadol* by the editor of the text (Type 2,8). A single unit, consisting of 4 lines of text, is essentially parallel, except for materials absent in Hoffmann's version of the text, despite its presence in *Midrash ha-Gadol* (Type 2,9).

A significant portion of both texts, however, is designated Type 4; that is, textual parallels which are alike thematically and in content, while at the same time marked by significant differences. A total of 146 lines of text in the Epstein-Melamed version, divided into twelve textual units, have been so denoted, accounting for 14% of that version of the text. Of this, two units (totaling 11 lines of text) are marked by not only significant differences, but also placement at different locations within either version (Type 4,3).

It is significant to note as well that there is no discernable pattern to the textual expansions of these sections designated as Type 4 in this tractate. That is, the "expanded" or "fuller" version does not appear with any regularity in either the Epstein-Melamed text or the Hoffmann text, i.e., in any particular

manuscript or in *Midrash ha-Gadol*. Moreover, a comparison of Type 4 sections from individual manuscripts vis à vis *Midrash ha-Gadol* fails to reveal any patterned relationships.

Twenty-one units are designated as either Type 5 or 6 — units that exist in one version of the text, but have absolutely no parallel in the other. Of these units, seven are Type 5 — units that are found in the Epstein-Melamed edition, but not in Hoffmann's. These amount to twenty-seven lines of text, or approximately 2.5% of the overall material in the tractate. Two of these units, amounting to four lines of text, have received the problematic designation of Type 5,9. These are units that are present in *Midrash ha-Gadol*, but were excluded for some unknown reason by Hoffmann from his version of the text. Fourteen units are Type 6 — material found in the Hoffmann version of the text with no parallel whatsoever in the Epstein-Melamed version. These units amount to a total of fifty-nine lines of text in the Hoffmann version, or approximately 6% of the entire tractate. Seven of these units, accounting for twenty-two lines of text (approximately 2% of the whole), are denoted as being Type 6,8. These are units drawn from *Midrash ha-Gadol*, but excluded consciously by Epstein and Melamed, due to the conviction that they were supplements to *Midrash ha-Gadol* by that text's editor.

Stepping back for a moment, and acknowledging, once again, that the information above does not take into consideration the relationship between individual textual witnesses in the Epstein-Melamed version and their parallel counterparts in the Hoffmann version, a remarkably congruous relationship between the tractate *Pisḥa* in the two versions has emerged. The combination of Type 1 and 2 textual materials — materials which are alike in exegetical theme, content, prooftext usage, and named sage citation — accounts for 868 lines, or approximately 83%, of the Epstein-Melamed version of the text. Thus, by an overwhelming majority the two texts correspond in either an identical or nearly identical manner.

The correlation becomes all the more impressive when one adds the textual materials that are designated as Type 4, which is not an entirely improper consideration. These materials, although significantly differentiated in some respects, nonetheless are basically parallel. That is, these portions are not so individually distinctive as to make it impossible to recognize them as parallels; they are clearly on the same thematic and exegetical "page." The combination of Types 1, 2 and 4 units yields a total of 1014 lines of text in the Epstein-Melamed version, or 97% of the materials in that text, that are, in effect, parallel to the materials in their textual counterpart. This is a remarkable level of affinity, given the fact that tractate *Pisḥa* in the Epstein-Melamed version is constructed from six independent textual sources, whereas the tractate in Hoffmann is based almost solely upon *Midrash ha-Gadol*.

INDIVIDUAL SOURCES VERSUS *MIDRASH HA-GADOL*

We turn now to an examination of the relationship between each individual source utilized by Epstein and Melamed to reconstruct tractate *Pisḥa* and its counterparts in the Hoffmann edition gleaned from *Midrash ha-Gadol*. Given the overall parallelism between the two documents displayed above, it is reasonable to expect few surprises; nonetheless, the possibility exists that one source, over and above all the others, relates more problematically to its parallel material in *Midrash ha-Gadol*. What follows is a source-by-source delineation, beginning with the source used most frequently in tractate *Pisḥa* in the Epstein-Melamed version and continuing in order to the source used most infrequently, with accompanying brief notations.

Midrash ha-Gadol v. Ms. Firkovich

type	*units*	*E-M lines*	*Hoff. lines*
1	6	33 (7%)*	25 (6%)*
2	12	341 (73%)	311 (74%)
2,9	1	4 (1%)	2 (0.5%)
4	6	81 (17%)	58 (14%)
5	1	4 (1%)	
5,9	2	4 (1%)	
6	5		24 (5.5%)
totals	*33*	*467*	*420*

**number of lines of text (percentage of whole)*

Epstein-Melamed's version of the tractate relies upon Ms. Firkovich for almost half its textual contents, closely mirroring the dependence placed upon this witness for the overall text of the edition. There is nothing overtly unusual in the relationship between the Firkovich manuscript and *Midrash ha-Gadol* in this tractate; in fact, the correspondence is remarkably similar to the overall correspondence between the two versions outlined above. A total of 98% of the Firkovich manuscript used in this tractate is basically parallel (Type 1, 2 and 4) to its counterparts in *Midrash ha-Gadol*. Nearly all the material preserved in Ms. Firkovich has textual parallels in *Midrash ha-Gadol*, with only eight lines of text devoid of any corresponding material (Type 5). This is more impressive when one considers that four of these lines of text have been designated as Type 5,9, meaning that they are fully attested in *Midrash ha-Gadol*, but were

not included by Hoffmann in his version for an unknown reason. In actuality, therefore, only four lines of text in the Firkovich manuscript are unattested in *Midrash ha-Gadol*. Finally, the majority of the Type 6 materials for the entire tractate (24 of 37 Hoffmann lines of text) are found in conjunction with Ms. Firkovich.

Midrash ha-Gadol (E-M) v.
Midrash ha-Gadol (Hoff.)

type	*units*	*E-M lines*	*Hoff. lines*
1,7	17	125 (56%)*	149 (52%)*
2	4	62 (28%)	72 (25%)
2,8	4	35 (15%)	46 (16%)
5	1	3 (1%)	
6,8	7		22 (7%)
totals	*33*	*225*	*289*

**number of lines of text (percentage of whole)*

Midrash ha-Gadol served as the second most frequently cited source by Epstein and Melamed in their reconstruction of this tractate. At first glance, it would appear to be problematic that the parallel excerpts in the two texts are identical (Type 1,7) only 56% of the time, considering that the source is the same for both texts! However, a close look at the relationship of the remaining parallel materials reveals this not to be as difficult as it first appears.

In the Epstein-Melamed version 28% of the material is designated Type 2, meaning that the correspondence is marred only by small, insignificant differences. In fact, a close examination of the Type 2 materials as they appear in the critical edition of *Midrash ha-Gadol* to Exodus produced by Margulies[46] reveals that the overwhelming majority of the differences that distinguish the parallel materials in the two versions of the *Mekhilta of Rabbi Shimon b. Yoḥai* are differences that are attested in the various manuscript traditions of *Midrash ha-Gadol*. That is, when incorporating these materials into their version of the text, Epstein and Melamed often chose to emend the text according to the textual variants in the apparatus of Margulies' edition.

Finally, 15% of the parallel material is designated Type 2,8, meaning that Epstein and Melamed incorporated the textual unit from *Midrash ha-Gadol*, but chose to delete portions they judged to be additions made by its redactor. Thus, the seemingly peculiar relationship between the citations from *Midrash*

46 Mordecai Margulies, *Midrash ha-Gadol: Shemot* (Jerusalem: Mossad ha-Rav Kook, 1956).

ha-Gadol in both texts (i.e., the lack of a more precise correspondence) has been clarified for a total of 99% of the *Midrash ha-Gadol* materials in the Epstein-Melamed version.[47]

Midrash ha-Gadol v. Ms. Antonin

type	*units*	*E-M lines*	*Hoff. lines*
1	2	9 (5%)*	9 (8%)*
2	4	93 (58%)	66 (58%)
4	4	54 (34%)	38 (34%)
5	1	5 (3%)	
totals	*11*	*161*	*113*

**number of lines of text (percentage of whole)*

The relationship between the citations from *Midrash ha-Gadol* in the Hoffmann edition and the citations from Ms. Antonin in the Epstein-Melamed version is straightforward and relatively uncomplicated, with 97% of the material in Ms. Antonin having a parallel of some sort (Type 1, 2 and 4) in the material from *Midrash ha-Gadol*. One noteworthy aspect of this correspondence is the fact that the proportion of Type 4 units is higher for Ms. Antonin, at 34%, than any of the other source materials used in this tractate.

Midrash ha-Gadol v. RAHL

type	*units*	*E-M lines*	*Hoff. lines*
2	5	36 (41%)*	35 (35%)*
2,3	3	32 (36%)	35 (35%)
4,3	2	11 (13%)	16 (16%)
5	1	9 (10%)	
6	2		13 (13%)
totals	*13*	*88*	*99*

**number of lines of text (percentage of whole)*

47 The one small unit (unit 10) that is in the Epstein-Melamed version of the text but not in the Hoffmann version is a unique situation. Its source material is written at the *end* of the Adler manuscript of *Midrash ha-Gadol*. Although I treat it as material drawn from *Midrash ha-Gadol*, Epstein and Melamed chose to include it and label it as manuscript material, even though it was located at the end of a textual manuscript of *Midrash ha-Gadol*. The brief tradition is not included in the Margulies edition of *Midrash ha-Gadol*. For more, see Epstein and Melamed, *Mekhilta of Rabbi Shimon b. Yoḥai*, 8, n. to line 17.

Having already discussed the material gleaned from the traditions accredited to R. Abraham ha-Laḥmi, few additional comments are required. With 90% of the traditions from this document paralleled in those taken from *Midrash ha-Gadol*, the correspondence is as expected.

Midrash ha-Gadol v. Ms. Oxford

type	*units*	*E-M lines*	*Hoff. lines*
2	1	57 (100%)*	60 (100%)*
totals	*1*	*57*	*60*

**number of lines of text (percentage of whole)*

Due to the precise nature of the correspondence, the materials gleaned from Ms. Oxford require no comment.

Midrash ha-Gadol v. Ms. Cambridge

type	*units*	*E-M lines*	*Hoff. lines*
2	3	41 (95%)*	36 (100%)*
5	1	2 (5%)	
totals	*4*	*43*	*36*

**number of lines of text (percentage of whole)*

Clearly, the proportionately small amount of material in this tractate taken from Ms. Cambridge corresponds excellently with its parallels taken from *Midrash ha-Gadol*.

Conclusion

As was stated at the outset of this article, the *Mekhilta of Rabbi Shimon b. Yoḥai* has been subject to a disproportionately small amount of scholarly attention, and it was conjectured that this was due primarily to a concern over the authenticity and trustworthiness of the variegated text. My goal in this effort, therefore, was to delve deeply into the reconstructive processes that led to the production of both editions of the *Mekhilta of Rabbi Shimon b. Yoḥai*, in order to gain a more enlightened perspective on this text and the efforts that led to its reclamation. It was also acknowledged at the outset that such an exercise not only involved a circular and self-referential approach to the available source materials, but

also required the employment of a conceptualization of rabbinic textuality that is currently being challenged and subjected to reconsideration. Given these limitations, and the fact that the subject of this examination has been restricted to a single tractate, it would be impossible, of course, to state with complete certainty that the Epstein-Melamed version of the *Mekhilta of Rabbi Shimon b. Yoḥai* succeeds in reproducing this once lost recension of tannaitic midrashic materials to the Book of Exodus with absolute precision.

However, by all indications, the above exercise does allow one to conclude with certainty that the text of the *Mekhilta of Rabbi Shimon b. Yoḥai* should be regarded as an equally valid and reliable component of the corpus of tannaitic texts, one that is overwhelmingly more akin to, rather than distinct from, its contemporaneous tannaitic textual counterparts. As mentioned above, the process of reconstruction that led to the production of the critical edition of the *Mekhilta of Rabbi Shimon b. Yoḥai* is virtually the same as that which led to the production of most of the critical editions of tannaitic midrashim, the difference being one of complexity. However, despite its reliance upon multiple, fragmentary source attestation, the text of the *Mekhilta of Rabbi Shimon b. Yoḥai* displays an impressive and remarkable level of affinity to, and congruence with, the closest thing it has to an overall "base" or foundational manuscript — *Midrash ha-Gadol.*

Moreover, one need only conjecture about the application of such an examination and investigation as the one conducted above to any of the other tannaitic texts in order to realize the magnitude of the similarities that bind the *Mekhilta of Rabbi Shimon b. Yoḥai* to the other components of the tannaitic corpus. For it is difficult to imagine any of the critical editions of the tannaitic texts withstanding the degree of scrutiny applied above to the *Mekhilta of Rabbi Shimon b. Yoḥai* and resulting in a substantially more impressive level of congruence among its various sources.

Thus, if one is disposed to ask if the Epstein-Melamed edition of the *Mekhilta of Rabbi Shimon b. Yoḥai* is a "complete" and "accurate" representation of "the" *Mekhilta of Rabbi Shimon b. Yoḥai* that purportedly was authored by, and circulated among, early rabbinic circles, the answer would still be no. However, one must acknowledge at the same time that this is the case for all the tannaitic midrashim. Given the consistencies and similarities underlying all of these texts' reconstructions, there is no basis upon which to determine that one text's reconstruction succeeds where another fails; at the core of them all is a conceptualization of the texts that is dissonant with the rabbinic culture that produced them. To deny, therefore, the *Mekhilta of Rabbi Shimon b. Yoḥai* its rightful place as a reliable and fully valid tannaitic text is to deny the extent to which all reconstructed rabbinic texts are somewhat dubious and faulty

repositories of the ancient practice of *talmud torah* they aim to contain. The characteristic lack of precise textual uniformity among rabbinic manuscripts is, perhaps, best understood as a remnant of the constant flux and change that was characteristic of the rabbinic traditions they momentarily froze and eternally preserve.

I have benefitted immeasurably from the insights and assistance of the following scholars, to whom I express my deepest gratitude: Drs. Edward A. Goldman and Richard S. Sarason, Hebrew Union College-Jewish Institute of Religion, Cincinnati, Ohio; and Dr. Martin S. Jaffee, University of Washington, Seattle. Needless to say, I attribute the strengths of this effort to them, and am alone responsible for its conceptual errors and shortcomings. I appreciate as well the extremely useful suggestions and comments submitted by the anonymous readers of this article, to whom I am also indebted.

Mayhem, Homicide, Pardon, and Forgiveness

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A modern lawyer would automatically classify intentional homicide and mayhem/aggravated battery as criminal offenses, but the Jewish legal system classifies them differently. The former offense stands among the *dine nefashot*, capital offenses, and the latter is among the *dine mamonot*, offenses punishable by some type of pecuniary payment. With respect to the *dine nefashot*, writers have focused on the *din torah* with its high standard of evidence required for conviction and upon other procedural requirements which make capital conviction all but impossible to achieve. Upon close inspection, however, it is clear that capital penalties were imposed at various times and places, and indeed a capital punishment for the intentional murderer was both preferred and desired. The reason for this apparent harshness is suggested by the manner in which mayhem/aggravated battery, and less severe batteries as well, were handled. After the batterer paid the sums imposed by the court, he sought the victim's pardon — and the victim had to grant it. The social fabric is thus made whole again. When there is, however, no living victim to grant pardon, the death of the offender provides the necessary atonement for the offense so that divine pardon may be granted, and the offender enter upon eternal life. Through the death penalty, a sort of balance is restored on earth and in heaven, because the life of the offender is not held more worthy than the life of his victim, and the process of death, atonement and forgiveness clears the offender's slate of his grave sin. Jurisprudence and theology are intimately linked.

The focus of this paper is how the Jewish system of law proposes to deal with persons who commit certain violent offenses against the peace and good order of the society which that system protects. Two offenses are examined. First, we shall look at intentional homicide. Civilized society knows no offense more violent, dangerous, and disruptive of peaceful human relationships than the willful taking of a human life. Second, we shall look at mayhem or aggravated battery, another serious and violent offense disruptive of societal harmony. The Jewish approaches to these offenses that we shall examine include both the actual steps that may be taken and the theoretical steps that should or would be taken, but that were or are in fact beyond the power of Jewish authorities to effect for one reason or another. The ways in which the Jewish system attempts to deal with these offenses suggest how it defends the fabric of society when one of these offenses ruptures it and also implicitly or explicitly reveals the values and ideals of the system.

It is necessary first, however, to draw attention to the fact that Jewish law

classifies the two offenses in its own way, according to its own genius. A modern, secular system of laws would place both intentional homicide and mayhem/aggravated battery into the catalog of criminal offenses, as opposed to civil wrongs. The Jewish system does not follow that pattern. Rather it classifies offenses as *dine nefashot*, cases involving capital penalties, *dine mamonot*, cases involving pecuniary payment, and *dine issur v'hetter*, cases involving various ritual matrimonial, and other prohibitions, a category that is not in point here.

The *dine nefashot* are not necessarily criminal offenses as they are understood in secular law.[1] They include matters such as the adultery of a married woman and various incestuous relationships that may indeed still be criminalized in many places, but do not carry a death penalty. Further, the category includes many matters that are of no concern to modern law: violations of the Sabbath, idolatrous practices, and many other matters that are certainly not capital crimes under secular law. One offense under the *dine nefashot* is intentional homicide, which in theory is punishable by death: a life for a life, in the language of Scripture, Exodus 21:23, Leviticus 24:17.

The *dine mamonot*, for all that they involve pecuniary payments, mulcts, etc., are really not to be confused with modern civil law because many of the offenses Jewish law classifies as *dine mamonot* are understood in modern legal systems as criminal offenses: mayhem, battery, arson, robbery, burglary, etc.[2] This category includes as well many matters that are indeed civil causes as between individuals, for instance, all manner of business disputes, claims for damages, and the like. Jewish law maintains its own system of classification that serves its own requirements, and those classifications do not translate precisely, if at all, into the classification systems of other bodies of law. Of course a person who has committed a criminal offense may also be subject to a civil suit, but that does not obscure the fact that the original offense in secular law was criminal, for instance, robbery.

Let us now turn to the matter of intentional homicide in the Jewish legal system, keeping in mind that the focus is on how that system deals with this particlar violent offender against society and not whether or not one penalty or another is or was in fact possible, probable, or even humane. For the present purpose interest centers on the offender who personally – and intentionally – causes the death of another human being. The rules presently to be examined surely assume

1 The list of *dine nefashot* appears in many places, e.g., the article on capital punishment in the *Jewish Encyclopedia* (12 vols.; New York: Funk and Wagnalls, 1903) 3:554–58 lists all the offenses under their appropriate biblical penalty. Maimonides gives a concise listing in *Mishneh Torah* (*M.T.*) *Hilkhoth Sanh.* 15:10–13. The Hebrew Bible is of course the source for the specific offenses; in the medieval period the offense of "informing" for all intents and purposes became an additional capital crime.

2 The facile identification of a matter as "civil" simply because it carries a pecuniary punishment is rather widespread; but no one should lump mayhem together with a suit for non-payment of rent. The problem stems from an attempt to apply the classifications and terminology of one system to the phenomena of another.

that the offender had formed the resolve to kill a specific person (*mens rea*) but whether or not the deceased was in fact that person is not at all relevant.

Moses Maimonides (1135–1204, Egypt) the premier codifier of the entirety of Jewish law outlines the various approaches to intentional homicide, *M.T. Hilkhoth Rozeah* 2:1–5. In the first paragraph of this passage Maimonides asserts that anyone who intentionally murders another human being, whether using a weapon of some sort, or with bare hands or by means of fire shall be subject to a death penalty imposed by a competent court.[3] Maimonides then moves on to the cases of the person who hires another to commit the offense of homicide, the person who sends his servant to commit the offense, and the person who incapacitates his victim so that he can not escape and leaves him to be killed by, e.g., wild animals, the suicide, and all persons who do these things are murderers; the sin of homicide attaches to them and they are liable for a death penalty imposed by divine agency, but they are not subject to capital prosecution before the human court. But the proposition that the penalty for an offense may fall outside the jurisdiction of the human, that is to say, the rabbinical court of 23 members charged with capital prosecutions, calls for brief comment.

In Jewish law, some cases demonstrate a degree of complexity that is best left to an all-knowing and divine judge.[4] While the actual hands on killer is indeed subject to the human court, the person who hires the killer is not because the specific procedural requirements for successful prosecution of him are absent. Yes, the hirer clearly bears a heavy burden of guilt but the system leaves that burden to the divine to requite. Finally, the concept of divine justice is a part of the Jewish legal system. Such justice is not at all an admission of impotence. The system operates, so to speak, with a continuum; the human courts do what they are able to do but when circumstances are such that they really can not operate effectively, a higher authority is ever ready to take over the task of justice. Divine justice is a legitimate aspect of the Jewish legal system.

Maimonides then proceeds to demonstrate the biblical basis for a capital penalty in each case of intentional homicide. The "hands on" killer is covered by Genesis 9:6. The suicide is covered by Gen 9:5; the person who binds a victim and leaves him to his fate where wild animals will kill him, by Gen 9:5 as well, and the same verse serves for the one who hires a killer. The three-fold use of the root *drsh* in that verse, in the sense of "to claim, require, or demand," makes the point sufficiently clear for traditional authorities that the verse includes all three special cases of intentional homicide.

Notwithstanding this legitimate reliance on divine justice, Maimonides then

3 Thus paragraph one. We shall get to matters of the court's competence in due course.

4 The traditional law uses the expression: a person may be exempt (from liability, or punishment) at human law, but liable (culpable) at divine law (or at least subject to review before a heavenly tribunal). See, e.g., *b.B.Qam.* 55b f. for a detailed but not exhaustive list. See also *t.B.Qam.* 6:16, 17 and *M.T. Hilkhoth Nizqe Mamon* 2:19.

asserts that all such offenders who are not subject to proceedings in the rabbinical court may indeed be brought before the King of Israel on a capital charge,[5] if the king chooses to exercise this power. Here again we are in the realm of theory. The possibility that a descendant of David might once again occupy the throne and exercise authority was and is highly remote to say the least. The point here, however, is that such a monarch was empowered to step in where the rabbinical court was powerless, and make certain that justice, capital justice, was meted out to those who really deserved it, by a royal court in which the standard of proof was lower than it was in the rabbinical court of 23. Finally, if the regular court for capital cases could not act, and the king did not chose to exercise his power, then a court of three judges could assume emergency powers, if circumstances so dicated, to inflict a capital punishment in order to curb wanton outrages against what we might consider public order.[6] If all else failed — neither the king nor an ordinary court chose to act — a rabbinical court is nevertheless obligated to inflict upon the offender an extremely severe beating, to incarcerate him for an indeterminate sentence of years, and to inflict sorrow and grief upon him as an example to potential killers.[7] The Maimonidean emphasis on the misery and suffering that the prisoner would endure perhaps suggests that he would (or should?) eventually die in prison, meeting a lonely and miserable end. Clearly, when it comes to intentional homicide, the first choice of penalty, both in theory and in practice, is death. The beating and incarceration are second best. But that of course is not the end of the story.

Let us return to the "hands on" killer. He is our main concern. He is the one clearly subject to the capital prosecution before the court, and his case receives most of the attention in the discussion of homicide.

The competent court to hear and decide capital matters was the court of 23 judges, all of whom were required to have traditional ordination.[8] There were as well various procedural requirements that had to be satisfied. There had to be

5 *M.T. Hilkhoth Melakhim* 3:10, *M.T. Hilkhoth Rozeah* 2:4.

6 This power is traced back to the Greek period. See *b.Yebam.* 90b and its parallel *b.Sanh.* 46a, the tradition reported by R. Eliezer b. Ya'akov. For a full study of this most interesting rabbinic tradition, see, H. Ben Menahem and N. Hecht, eds., *Selected Topics in Jewish Law* (2 vols.; Boston: Institute of Jewish Law, Boston Univ. School of Law, 1988) vol. 2.

Alfasi and Maimonides only mention a court. *Rosh*, followed by *Tur*, specifies the composition of such a court: the members must be the foremost experts of their day and appointed to such a task by Jewish communal leadrship. Yet the duly chosen leaders of every community enjoy the power to appoint such a court. See *Beth Yosef* to *Tur Hoshen Mishpat* 2. Karo in *Shulhan Arukh, Hoshen Mishpat* 2:1 follows *Rosh* on this point. See also Isserles' gloss ibid.

7 None of the standard commentators remarks on this matter of harsh imprisonment as exemplary punishment.

8 *M.Sanh.* 1:4; *b.Sanh.* 4b ff.; *M.T. Hilkhoth Sanh.* 4:1, 2. Ordination is understood to have begun with Moses and continued through Joshua and so on through centuries until it ceased sometime around

two competent witnesses to the killing.[9] The accused also had to have received a warning as to the gravity of what he proposed to do and of the penalty attached to it.[10] Moreover, the offender had to have explicitly rejected that warning and said, in effect, despite the consequences, I persevere in what I am doing.[11] The warner might be one of the witnesses or some other person.[12] Without the requisite witnesses and the tender and rejection of warning, the capital case failed on procedural grounds.

There is an air of unreality about this procedure. The entire process assumes physical conditions of sufficient light so that the witnesses and the warner could really see what was happening. But many murders occur at night, when identifications are difficult and it is simply hard to see what is going on from any significant distance. Then, too, why should the killer engage in this exchange with the warner? Why should he not simply do murder and flee — to disappear into a crowd or into the shadows? The warning process is a rather disruptive ritual for one who is bent on an act of violence. The warning does of course establish that the act is absolutely intentional and its consequences understood. Yet even if the warning were duly carried out and the witnesses were able to see the act, there are still two problems. First is the physical apprehension of the killer, who is presumably not at all willing to go along quietly. Second, what of the killer who explicitly rejects the warning, performs the act, and then declares that "voices commanded me" to kill? Such a possibility does not figure in this process of witnessing and warning. This observation on the killer who claims to have followed the orders of "voices" prompts another observation on the real life utility of a system which insists, at least to begin with, on two competent witnesses and formal warning. A killer and his victim often share a history which, if it were known, would go a long way towards mitigating a sentence in a modern court. What of the person who kills the man who raped his sister? Is he not acting after the fashion of Dinah's brothers?[13] What of the man who kills the person whose avarice and callousness drove his father to suicide? The tradition does not explore such questions. A murderer is a murderer and deserves death, however that penalty might be achieved by the process of justice. Nothing, so it would appear,

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the fourth century C.E. after years of persecution that had made ordination a capital offense under gentile law.

9 The requirement that a case be proven by at least two competent witnesses is biblical, Deut 17:6. Such a clear and unequivocal scriptural demand was of course adopted in all later developments of the legal system. Num 35:30 specifically excludes the possibility of successful prosecution for homicide under Torah law based on the testimony of a single witness.

10 *B.Sanh.* 81b; *M.T. Hilkhoth Sanh.* 12:2 and commentators ad loc.

11 Ibid.

12 *M.T. Hilkhoth Sanh.* 12:2 and *Kesef Mishneh* ad loc.

13 Genesis 34.

mitigates the view taken of intentional homicide. Moreover, the tradition appears to assume that the case against the accused is quite air-tight; the witnesses can not be shaken nor impeached.

On the whole, it would seem that no killer might be arraigned for his crime since it is certainly not in his interest to engage in any exchange with a warner or witness. The entire process seems to be too formal and sterile for use in actual situations of violent confrontation. Therefore, it does not appear to protect the peace and good order of society very well, although the murderer is very well protected.

This rather ritualized scenario does have an exception. This is the exception of the *rodef*,[14] the pursuer. If a person pursues another to kill him, he may be prevented from committing the offense by any means necessary, even deadly force if no lesser level of force will suffice to prevent the act. No warning is required before witnesses or bystanders jump the potential killer and prevent the offense. The matter of crime prevention looms large in the case of the *rodef*. Indeed if one is able to perform such a rescue and does not do so, that person has transgressed two negative commandments, for which transgressions, however, he does not receive the mandated flogging even though this omission is a very serious matter, *M. T. Hilkhoth Rozeah* 1:13–16. This situation clearly assumes a good deal of courage on the part of the bystanders. Not everyone is cut out to assault an armed or angry man intent on murder. But the important point here is that the warning is not necessary, and above all, the potential offender remains just that, a potential offender, albeit, possibly a dead one.

All these cases presume the presence of witnesses, but murder is often done where there are no witnesses. What then? R. Shimon b. Shetah once saw a man chasing another man into a ruined building.[15] When R. Shimon caught up with the pair, he saw the pursuer gripping a bloody sword in his hand and the other man on the ground in his death throes. R. Shimon faced the murderer and declared his helplessness to bring him formally to justice: there had been no warning, there were no competent (or otherwise) witnesses. What R. Shimon did, however, was to commend the killer to divine justice, and legend holds that a poisonous snake bit the murderer and he died on the spot.

This ancient anecdote leads to a fascinating discussion in the *gemara*.[16] First it is pointed out that after the destruction of the Temple in 70 C.E., the courts competent to hear capital cases no longer sat. Nevertheless, the law of the four sanctioned modes of execution imposed by such courts did not cease with them. The person whose offense required death by stoning either fell from a roof or was trampled by animals; the person whose offense required death by burning

14 *B.Sanh.* 73a and parallels.

15 *B.Sanh.* 37b.

16 Ibid.

either fell into a fire and died or was bitten by a poisonous snake; the person whose offense required death by decapitation would eventually either be handed over to the gentile government or slain by brigands; and the person whose offense required death by strangulation either drowned or died of suffocation. In other words, other agency, divine agency, somehow saw to it that justice be done even after the regular courts no longer heard capital cases.

As a matter of fact the rabbinical court of 23 may have ceased to operate a generation before the destruction of the Temple, but no matter: the killer met his just end anyway.

But let us say that in the period in which there was a competent court, the case of a murderer did get on the docket.[17] There were "no witnesses," however; that is, as the *gemara* suggests, there were witnesses but they were not, as was required, standing together when they saw the offense.[18] Or, the *amora* Samuel suggests, there had been no formal warning.[19] What then? Or perhaps the witnesses disagreed on some points — not vital ones — of their testimony.[20] The capital case should fail — and it does. But the accused does not walk away a free man. He is led to a cell where he is forced to eat a diet that will eventually cause intestinal rupture and a rather painful death. The absence of the formal requirements in a capital case does not automatically end the proceedings. Death one way or the other seems to be the fate of the accused.[21]

Let us turn now to two final elements mentioned by Maimonides. First the Davidic king. Even though there was no reality to royal justice, there was the hope that some day it might be restored. What is important here, however, is that the concept of royal justice clearly involves the death penalty for intentional homicide when procedural difficulties stymie the rabbinical court of 23. Second, we have the matter of exigent jurisdiction. The Talmud records a tradition transmitted by R. Eliezer b. Ya'akov which undergirds the concept of exigent jurisdiction.[22] The Rabbi relates that he had heard that a rabbinical court (of three members) could impose floggings and even capital punishment, even when

17 This probably did happen although the cases of capital punishment reported in the Mishnah certainly were not conducted according to the requisite rules. R. Johanan B. Zaccai appears to have served on a capital judicial panel early in his career, *b.Sanh.* 41a, f. The mishnah reports that R. Simeon b. Shetah, who could do nothing when he found the murderer standing over his victim, hanged 80 women on one day in Ashkelon; their offense was witchcraft, *m.Sanh.* 6:4. The Mishnah also reports the execution of a priest's daughter who had committed some sexual impropriety. The court had her burned to death by an unauthorized method; the court was reportedly not learned, *m.Sanh.* 7:2.

18 *B.Sanh.* 81b; *M.T. Hilkhoth Rozeah* 4:8.

19 Ibid.

20 Ibid.

21 Ibid.

22 Cp. n. 6. above.

the offense of the accused did not, as a matter of Torah Law, carry such a penalty. The theory is that the court acted in this manner to curb outrages and unlawful conduct and that the punishments were by way of being a safeguard for the Torah in the long run rather than a breach of it. The anecdote recalled two incidents, neither of them remotely similar to intentional homicide; but a fortiori the tradition manifestly extended exigent jurisdiction to cover any sort of egregious breach of public order — including murder. In fact, the medieval Spanish authorities developed a significant body of law on the imposition of capital punishment based on traditional exigent jurisdiction because Spanish communities from time to time exercised capital jurisdiction under letters patent from the Spanish crown.[23] Exigent jurisdiction operated with far lower standards of evidence for convictions; there were no requirements of warning or two witnesses: a confession might be introduced, circumstantial evidence was heard, etc.[24]

There were no witnesses to the murder that Shimon b. Shetah encountered, but what if the dying victim had, with his last breath, identified his killer? Again, there are no witnesses of any kind and no formal warning, yet the man with the bloody knife is no less a murderer in fact. The tradition would imagine that condign punishment would come from divine agency, or through (in theory) royal justice, or through exigent proceedings where the victim's last utterance would presumably carry a good deal of weight. At the very least, the killer, upon apprehension and trial, could well be subjected to beating and to incarceration, but that is always the default position. The tradition would clearly prefer a death penalty, whether by human or divine agency.

The Jewish tradition treats the intentional murderer very severely indeed. It is a *din nefesh*, a case involving capital penalty. If the accused got his due in the days before the destruction of the Second Temple by means of the court of 23, well and good. But even if the strict Torah case against him was fatally flawed, there was divine justice, there was the deadly diet in the cells, there was — in theory — the possibility of royal justice, and there was (and is!) the possibility of a court of three judges who might assume exigent jurisdiction. Only when no avenue of prosecution could achieve a death penalty did the tradition turn to the option of severe beating and incarceration for years of misery and suffering — at least according to Maimonides.

Both *Tur Hoshen Mishpat* 425 and *Shulhan Arukh Hoshen Mishpat* 425:1 acknowledge that Jewish courts are no longer in a position to exercise capital jurisdiction under the classic, Torah rules. Both works, however, clearly note

23 *Responsa* of R. Isaac b. Sheshet Perfet, (ed. Constantinople, 1547) nos. 234 and 239; *Responsa* of R. Asher B. Yehiel, (ed. New York, 1954) sec. 17 no. 1; R. Judah b. Asher, *Zichron Yehudah* (Responsa), (ed. Jerusalem, 1967) no. 58. See also I. Epstein, *The Responsa of Rabbi Solomon b. Adret of Barcelona* (2d ed.; New York: Hermon Press, 1968) 49 f. and Y. Baer, *A History of the Jews in Christian Spain* (Philadelphia: Jewish Publication Society of America, 1961) 143, 231 ff., 315 f.

24 Cp. responsa cited in n. 23.

that capital punishment may still be imposed under procedures of exigent jurisdiction by a distinguished court appointed by communal leadership, a matter which we have already sufficiently examined for the purpose of this study.[25]

Why so harsh? Why is the tradition so singlemindedly focused on a death penalty imposed by some agency, human or divine? The tradition is certainly well aware of compassion and leniency; the law need not be used as a bludgeon to exact the last drop of punishment from an offender. The proposition that a lust for vengeance animated the rabbis' insistence on a death penalty in the matter of intentional homicide is far too simple to explain the matter fully. They were not inclined to vengeance in similar areas, as we shall presently observe. The better reason for harshness no doubt lies elsewhere.

The tradition does preserve a fifteenth century case in which a non-capital punishment was imposed on a self confessed murderer who was overcome with remorse.[26] The offender was to undertake a life-long regime of repentance, abasement and good deeds; and he was to provide for the widow and orphans of the deceased. Even so, the man was still subject to death at the hands of Heaven. The Jewish court in Central Europe which heard this case had no capital jurisdiction. One wonders what direction the case would have taken had the court enjoyed such power as the Spanish rabbinical courts occasionally did. The non-capital punishment had to suffice. We are not informed whether or not it was successful and the offender did become a chastened doer of good deeds.

The answer to the question of why so harsh and why so brutal will be attempted after we examine our second offense: mayhem and aggravated battery. These, too, are serious assaults on the peace and good order of society, and here as well, Scripture appears to demand like for like retaliation: Exod 21:24, 25 and Lev 24:19, 20. But in this case the rabbis argue skillfully and successfully that pecuniary payment, not retaliation, shall be the proper punishment for such offenses (*b.B.Qam.* 83b,ff.). And their opinion of course became the codified law (*Shulhan Arukh Hoshen Mishpat* 420). Had vengeance been a rabbinic desire, why did they not support the biblical emphases on an eye for an eye rather than translate *talion* into a schedule of payments? Clearly vengeance was not uppermost in their minds when they considered mayhem and aggravated battery.

In the Jewish legal system, mayhem or aggravated battery is classified as a *din mamon*, that is, a matter which may be made right through some pecuniary payment: a fine, mulct, damages, etc. The rules of evidence for a *din mamon* differ from those of the *din nefesh* in several important particulars. Formal warning is not a requirement for a successful prosecution of most types of *din mamon*, and a voluntary confession by the defendant is admissible in the proceedings whereas no confession of any kind on the part of the accused in a *din nefesh*

25 Cp. n. 6 above; cp. also *Tur Hoshen Mishpat* 2 and *Shulhan Arukh Hoshen Mishpat* 2:1.

26 See the *Responsa* of Israel b. Haim of Brunn, (ed. Salonika, 1798); (ed. Stettin, 1860) nos. 265, 266.

is admissible against him. The competent court in a matter of *mamonot* is the court of three judges, not the court of 23 judges necessary for a *din nefesh*. But the most obvious difference between them is really the fact that in a case of mayhem/aggravated battery the victim is alive and can communicate the identity of his attacker.

The *mishnah* provides a schedule of five payments in cases of mayhem: a payment for injury (*nezeq*); one for pain (*tsar*); one for medical expenses; one for loss of time from the victim's usual employment; and one for the public indignity or shame suffered by the victim.[27] The court may award one or more of these payments to the victim, the *gemara* goes into the details of how the several payments are assessed and similar matters. The cases of mayhem/aggravated battery suggested in the *gemara* appear to presuppose an intentional attack. There is mention of the cutting off of a hand, the shattering of a leg, of the blinding of an eye. These injuries may of course be sustained accidentally, but the tone and tenor of the rabbinic discussions never suggest that accidents are in point. Indeed the *mishnah* opens the matter by using the verb *hbl*, which means intentional wounding. There is also a schedule of payments for lesser batteries where no actual injury is sustained, but the public shame of a slap or other public embarrassment calls for a pecuniary penalty.[28] The discussions of this matter clearly consider these cuffs and slaps to be intentional acts. We shall revisit this matter in due course.

The victim in a matter of mayhem/aggravated battery would ordinarily produce witnesses against his attacker, the case would be argued out before the three judge court, and should the complainant prevail, a judgment calling for payments would be entered. The defendant might admit to a degree of liability. All this is very straightforward.

We observed that the problems in cases of intentional homicide arise when there were no witnesses to the act itself. There could be witnesses to a quarrel between the accused and the deceased, or even the discovery of the accused, weapon in hand, standing over the victim's dead body, but none of that is admissible testimony in the *din nefesh* proceedings. Therefore the accused would receive puishment either through divine agency, or (in theory) by royal justice, or through exigent proceedings. Failing all that, he could look forward to a near-mortal beating and years of prison. The tradition went to great lengths to insure that the person who committed intentional homicide received a just penalty — his death if at all possible. In that manner justice was served, or, one might propose, the balance and order of the society were properly readjusted and the social fabric mended.

The same sort of evidentiary problems may arise in cases of mayhem or aggravated battery. And here as well, justice must eventually be done. But in this case

27 *B.B.Qam.* 83b, ff.
28 *M.B.Qam.* 8:6.

the victim is still able to speak for himself, to identify his attacker, and so forth. If there were witnesses, the case would proceed normally, but what if there were no witnesses? It is precisely this case that clearly demonstrates the significance of the peace and good order of society in the operation of the Jewish legal system.

We shall examine the matter of unwitnessed mayhem/aggravated battery in detail. There is much more material in the medieval restatements of the law than there is on the matter of intentional homicide. Only Maimonides presents the various modes of dealing with that offender, probably because the entire matter of the *din nefesh* was usually no longer a matter for Jewish jurisdiction and in any event competent ordained judges qualified to hear such cases were no longer present. Ordination had ceased centuries before. All the major medieval legal restatements discuss the matter of the mayhem/aggravated battery that occurs when there are no witnesses to the act itself. That is, there are no persons who can give testimony as to the attack itself, but there are persons who can speak to the circumstances surrounding the attack. This circumstantial evidence is accorded significant weight in the adjudication of the matter.

The victim of the mayhem or battery, which was not itself witnessed, takes an oath, as provided in the *mishnah* of *b.Šebu.* 44b. There the *mishnah* presents the oaths which are taken in order to receive payment, in contrast to the usual situation in which one takes an oath in order to be relieved of an obligation to pay. One such "collection oath" is taken by the victim of a mayhem or battery —"the oath of the wounded." The *mishnah* specifies the conditions under which such a collection oath is taken. First, there is competent testimony that a person in good health, uninjured, enters the company of another person and the former individual leaves the latter's company wounded and accusing the other of having injured him. The accused necessarily denies the allegation in order to set the stage for the oath. In this situation, the injured party swears the oath and receives the various sums due him under the law.[29] R. Judah insists that the oath shall only apply if the accused partially admits wrongdoing; that is, he is accused of inflicting two wounds and admits to inflicting one of them. R. Judah's opinion plays no part in the development of this law.

The very brief *gemara* to this part of the *mishnah* (*b.Šebu.* 46b) amplifies the circumstances in which this collection oath applies. If the wound could manifestly not have been self-inflicted, the injured party collects without having to take the oath: e.g., the wound is in the center of the back. Moreover, the situation is such that no other person was present with the attacker and victim at the time of the injury; in that case as well, the oath is not necessary for the injured party to collect his due.

29 There is a maximum of five such payments: injury, pain, medical costs, loss of time from employment, and indignity and shame, *m.B.Qam.*, 8:1. If a person had to pay all five, a very large sum indeed would be involved; even one of them might amount to a substantial payment.

It may be suggested that this *mishnah* involves the shifting of a "burden of proof" from a "creditor" to a "debtor." This approach, however, appears overly complicated and even tortured. When a Torah oath is imposed on a party it is because there is no means of "proving" the case or establishing liability or non-liability without such an oath. The use of the debtor – creditor relationship is quite forced. In the same *mishnah*, the unpaid worker swears an oath that he has not been paid in order to receive payment. This oath establishes a liability for the employer in the absence of any other means of proving whether or not wages were paid. Similarly in the case of the victim, the oath asserts a liability on the part of the attacker, absent other means of proof, and in this case it also establishes, to the court's satisfaction, the identity of the attacker. No "credit" was extended here. There is surely no reason to import concepts of creditor and debtor into the situation. The cases of "collection oath" specified on the *mishnah* of *b.Šebu.* 44b cover matters in which, without any means of proof besides the oath, a person might be easily victimized: the as yet unpaid laborer; the victim of a battery; the storekeeper who has advanced goods or cash and has only his ledger notation to indicate that advance, each one swears that his opponent in the case is liable for some payment. Only the last example reflects a "credit." Once the claimant in the court has sworn as to the liability of his adversary, the cases may be resolved. There is no need for analogies to creditors and debtors. Let us then return to our principal interest, the victim's oath.

The injury victim's oath does require competent testimony that accuser and accused were together, and presumably in each other's company long enough for the incident to have occurred, and the accuser emerged from the encounter with an injury. Aside from that, however, the injured party's unsupported claim becomes sufficient, even without an oath if the wound were clearly not self-inflicted, and so forth.

The medieval restatements further refine the rules surrounding the injured victim's oath.[30] Maimonides presents the matter in paragraphs four, five, and six in chapter five of *M.T. Hilkhoth Hovel Umaziq*. He lays out the process in this fashion.

30 The focus of this brief paper is the rule as presented in the medieval restatements of the law. Those formulations best reflect how the rabbinic jurists envisioned the rule and its basic modes of application. The responsa literature, which discloses how this rule did or did not play a role in the actual adjudication process, is only tangential to the present inquiry. In fact, the responsa yield a very sparse harvest on this matter of this oath. There do not appear to have been any cases on the wounded victim's oath itself as having come before a court; if there were such cases, they did not find their way into the literature. When an authority does discuss the oath, it is not because the oath had been administered, etc., but because the oath and its legal context were relevant to some other fact situation. See e.g., Jacob Reischer, *Shevuth Ya'akov* (pt.1; Halle, 1710) no.113 and the *Pithe Teshuvah* to *Shulhan Arukh, Hoshen Mishpat*, 90:16, n.2 which revisits the responsum.

1. The sages fined the foolish, violent people who injure others because the injured party takes an oath on a sacred object (e.g., a Torah scroll) and is deemed trustworthy to accuse his attacker and take the payments due him in recompense.[31]

a. There must be witnesses to assert that the injured party was quite healthy when he entered the company of the accused; but there need be no witnesses to the actual attack and injury.

b. The accused denies the injured party's claim.

c. The injured party swears the oath and collects.

2. The oath is required when the wound is such that it could have been self-inflicted or there was a third party present at the attack with whom the victim could have conspired to inflict the wound and yet accuse another of inflicting the injury.

If there were no third party present and the wound was manifestly not self-inflicted, the victim collects his due from the attacker without the necessity of an oath.

3. If the accused attacker admitted the deed, he is liable for all five categories of payment to this victim, since witnesses attest to the circumstance that the victim was uninjured when he entered the accused's company, a quarrel existing between them at that time, and left his company with the injury.

a. If there were no witnesses to their being together at all, and the victim accused the attacker and the attacker admitted the deed, the attacker is exempt from payments of *nezeq* and *tsar*, but liable for payments covering loss of time from work, public degradation and shame, and medical costs, on the strength of this admission.[32]

b. If the accused attacker denies inflicting the wound (there being no witnesses), he swears a customary oath (and he need not pay at all).

31 Maimonides uses the technical term *qenas* to indicate the various sums. Strictly speaking, the *qenas* could only be imposed by ordained judges, and such ordination had been only a memory for centuries prior to Maimonides. There arose, therefore, a debate among the medieval Jewish jurists as to how a victim could receive his due -- and the attacker suffer an appropriate penalty — when *qenasot* as such were out of the question. The medieval authorities, with great resource, solved the matter in a most practical fashion. See S. M. Passamaneck, "Aspects of Physical Violence Against Persons in Karo's *Shulhan Arukh*," *JLA* 9(1991)20 ff., 32 f., and 81 f.

Rabad (Abraham b. David, d.1198, France) commenting ad loc. on Maimonides remarks that the sums in question were not *qenas* at all; sane people do not go around hurting themselves, the law simply believed the victims on their oath.

32 The *Rabad* and the *Maggid Mishneh* (Vidal of Tolosa, 14th century, Spain) both discuss the details of points 3 and 3a. *Rabad* wonders why the attacker should be liable for only three of the five sums; since each amount requires a "calculation" — none is a set "fine" (*qenas*) — he should be liable for all or exempt from them all when he admits the deed, there being no witness to the deed. *Maggid*

Maimonides does not specify whether the quarrel between the parties represents a long-standing enmity or a sudden eruption of emotion. He only mentions that there was a quarrel. What role that quarrel might play in determining premeditation is similarly left unremarked; premeditation is not a significant matter in this case. Obviously at some point one person became sufficiently enraged at the other to do him bodily harm. Whatever quarrel or provocation — premeditated or not — preceded the act, the act was done, it was unlawful, redress in court should follow. The attacker's admission appears to relate only to the fact that he did strike and injure the victim.

The provision of 3b is only reasonable. If there are no witnesses to an angry meeting but only the word of the injured party against the word of the accused attacker, there is clearly not enough basis to impose liability. We have what is known in police parlance as a "he said, she said"; there is no way to establish exactly what occurred on the basis of the conflicting assertions of the parties.

Up until the last scenario, in which claims are evenly balanced, the word of the victim carries important weight with the court. His testimony as to the attack does not require direct corroboration. The witnesses speak only to the circumstances: the victim was whole going in and injured coming out.

Maimonides inserts the element of quarrel between the parties specifically in the paragraph in which the attacker admits to the deed. Whether or not he assumed enmity between the principals in any event is not clear. At any rate, the witnesses must attest to the victim's condition before and after; testimony as to a quarrel adding credence to the accusation does not appear crucial at all. In sum, circumstantial evidence makes the case. Anger and quarreling may or may not be present.

On balance, it is just as reasonable, if not more reasonable, to posit a scenario in which the victim is lured or cajoled or enticed to the scene of the attack by an attacker who shows no outward signs of malice. It is far easier to catch the victim alone and off guard; why alert him with an argument or a quarrel? On the other hand, Maimonides may have assumed that anger between the parties must have entered the situation somewhere; that such an attack was inconceivable without some heat that reached a flash point between them. The matter need not be resolved one way or the other, however. The witnesses speak to the circumstances and the victim's before and after condition, and that is enough along with the accusation itself. The matter of anger is far more prominent in the *Tur*'s presentation.

Mishneh launches into a rather inconclusive discussion regarding what mulcts are in the category of mere money payment, and not deemed *qenas*, and how Maimonides might be understood to view the matter in this context and elsewhere. He ends his comment by asserting that one needs to consider matters as between Maimonides and *Rabad* more deeply. The entire matter of whether or not *qenas*, used by Maimonides, is indeed *qenas* or simply a money payment is of interest on a technical level, but it does not bear upon the formulation of the rules as found in the later restatements.

This same rule appears in *Tur Hoshen Mishpat*, chapter 90, end, in the sections on oaths taken before the rabbinical court. Maimonides, as pointed out above, puts the material in the laws on wounding. *Tur* puts the same rules among the laws of oaths, where it just as reasonably belongs, since that is its talmudic context and the matter does involve the procedure in a case in which an oath is apparently the only legitimate means to resolve the claim before the court. In the *Tur* matters stand as follows.

1. The wounded victim swears an oath and collects his due.
a. This holds good when competent witnesses attest that the victim entered the accused's company whole and left it injured, the attack itself not having been witnessed; and
b. The injured party accuses the attacker and the attacker denies the allegations. The oath is taken and the injured party collects.
c. If there is indication that the accused inflicted the wound — i.e., it is impossible for that wound to be self-inflicted — and also there was no other person present with whom the victim could have conspired — that is, agreed to receive a wound from that other party and to accuse someone else of the deed — the victim collects without the necessity of swearing the oath.

2. R. Meir Abulafia[33] wrote that where it is clear to witnesses that any third party present at the time of the attack could not have inflicted the wound, it is as if there was no one else there and the necessity of the oath is obviated. The victim simply collects his due.

3. R. Meir Abulafia continues — collection is consequent upon the oath when two people were quarreling (and witnesses attest to this quarrel and that) the victim entered the accused's company whole and emerged injured since the (circumstances of) the matter indicate that the accused inflicted the wound — since there was enmity between them.
a. If there was no quarrel between them, however, the oath is not imposed and the victim does not take recompense, even if the matter is clear.

The *Bait Hadash*[34] commentary ad loc. takes a hard look at the last portion of Abulafia's remark where he says that the victim's collection after swearing the oath applies when two persons who were seen quarreling, one entering the company of the other whole and emerging injured, where clearly the fact of the quarrel indicates that the accused caused the injury. If there was, however, no quarrel between the parties, there is no oath and collection of recompense *even if the matter is clear* (*i' bri'ra milta*). *Bait Hadash* focuses on the last few words

33 Meir b. Todros ha Levi Abulafia, the *Ramah*, d. 1244, Spain.
34 Joel Sirkes, d. 1641, Poland.

and emends the text, certainly on the basis of other mss. His emendation was adopted as the best reading, and it appears in the present printed versions. Apparently, *Bait Hadash* had a version that read "there is no oath and collection *except* the matter be clear" (*'ela bri'ra milta*). The *except* (*'ela*) is dismissed as a copyist's error. He then explains the meaning of the passage: even though it is clear to us that the injury was not caused by some other thing, nor by the victim himself, even here the sages ordained that there should be no oath and collection. Rather, the accused takes an oath and is relieved of any liability, since, owing to the fact that they were *not* quarreling, there is no more basis for declaring that the accused inflicted the injury than there is for declaring someone else caused the harm. Thus, without the presence of manifest enmity (whether recent or inveterate) between the parties, we have a case of one person's word against the other person's word — a case of "he said, she said."

The emendation and explanation may satisfy *Bait Hadash*, but they raise further difficulties. Specifically, there is the problem of witnesses. Maimonides' case of "he said, she said" occurs without witnesses to the fact that one party came into the company of the other whole and left it injured. The situation that *Bait Hadash* proposes requires some testimony — the presence of witnesses — to speak to the matter of the quarrel or lack thereof. If the witnesses saw or heard the quarrel, might they not also see the two go off together and the one return injured? There is something off-key and unsatisfying in *Bait Hadash*'s comment.

Moreover, to make the matter turn on the point of manifest enmity suggests that the perpetrator need only be sure that witnesses see him in affable conversation with his intended victim. He need only lure his victim with smiles. Surely the rule relies far more upon the testimony of witnesses who saw them together and later saw one of them wounded, that is, upon the assertion of circumstantial evidence.

The *Sefer Meirath Eneyim* commentary[35] to *Shulhan Arukh, Hoshen Mishpat* 90:16, does not mention the *Bait Hadash*'s opinion but the sense of his comments is that the cryptic conclusion of Abulafia's remark in the *Tur* does not mean what *Bait Hadash* concluded. He wrote that when there was a quarrel between parties, the victim must take the oath in order to collect recompense. But if there was no quarrel between them there is no oath and collection, *except* the matter be clear. *Sefer Meirah Eneyim* does not adopt the emended text of *Bait Hadash*. He is perfectly content to read *'ela*, except. This commentator then proceeds to say that (Abulafia's) point is that — if the matter be clear — the victim takes his recompense without the necessity of the oath. The clarity of the matter, of course, depends on witnesses who speak to the circumstances of the case. Circumstantial evidence is obviously pivotal, given the situation posited by this commentator.

Abulafia does indeed appear to make the quarrel the key point, if we accept

35 Joshua Falk Cohen, d.1663, Poland.

the revised text of *Bait Hadash*. If, however, we read the *'ela*, the except, the text makes even better sense, since the principal theme that runs through these rules is the testimony of witnesses that the two went off in good health and the one returned wounded accusing the other of inflicting the injury. This is just what *Sefer Meirath Eneyim* does. On balance, the reading of *'ela* yields a more compelling sense: if there were no quarrel, no oath and collection, *unless*, *except*, the matter is clear (as established by witnesses) that there should be oath and the payment of the proper recompense.

We turn now to the same rule as it appears in *Shulhan Arukh Hoshen Mishpat* 90:16. The material is much compressed and it is the shortest version of the rule. The text is the last paragraph in chapter 90, which is part of a larger general heading: laws involving claimants and defendants. Karo presents the matter this way in *Hoshen Mishpat*:

1. The wounded party swears and collects recompense if competent witnesses have seen him, in a healthy condition, come into the company of another person and leave that person's company in an injured condition, but not, however, having seen the injurious attack itself. The injured person says, "He wounded me"; but the other one denies injuring the victim. The injured party swears the oath and collects his recompense from the accused.

2. If there is indication that this accused party inflicted the wound, e.g., the wound was in a place where it could not have been self-inflicted — for example, between the shoulders, etc. — and there was no other person with the two of them, the injured party collects recompense without the necessity of taking an oath.

3. Even if there were another person with them, if it is clear to the witnesses that this other party did not inflict the injury, the matter stands as if there were not any other person with them. The injured party collects recompense without the necessity of taking an oath.

The *Shulhan Arukh* version does not even mention quarreling and enmity. The tenor of the relationship which obtains between attacker and victim does not apparently make any difference in the rule. The key to the matter is the circumstantial evidence presented by the competent witnesses. Abulafia's remark has fallen away, relegated to the commentaries.

We have already taken a look at the *Sefer Meirath Eneyim* commentary to this rule. The *Sifthe Cohen* commentary[36] ad loc. rejects the *Bait Hadash*'s emended text and agrees with the interpretation of *Sefer Meirath Eneyim*.

36 Shabbetai Cohen, d. 1663, Lithuania.

These rules in all three restatements convey an unmistakable pattern. They place the victim of a battery or mayhem in an advantageous position with respect to his attacker. The law does not require direct testimony as to the attack. Witnesses indeed are necessary, but they need only attest to the fact that the victim who appeared healthy came into the company of the attacker and emerged from that person's company with an injury. The law provides for the possibility that the wound could be self-inflicted. The presence or absence of a quarrel between the principals need not carry any significance in the adjudication of the matter. Maimonides mentions the possibility of a quarrel, but gives it no particular weight or significance. Only R. Meir Abulafia assigns any substantive importance to it. The main point is the reliance on circumstantial evidence which inclines the law in favor of the victim.

The victim enjoys another advantage in these matters as well. After all required payments and indemnities have been paid to the victim, there is still one more step under the law that is necessary to bring the matter to an end. The law insists that the attacker, even in a minor battery, seek forgiveness from the victim — and that the victim grant pardon to the attacker.[37]

As noted earlier, battery and mayhem are classified as serious offenses involving pecuniary compensation, *diné mamonot*, but they are also of course transgressions in a moral and theological sense, albeit the act is between persons. It is a sin against deity as well as an attack on a human being. Therefore, it can only be remedied fully by the seeking and receiving of pardon. Only then could the malefactor be purged of the sin of the offense. The element of pardon however suggests as well a sociological consideration.

Community life has always provided the necessary infrastructure for rabbinic Judaism — whether the community was a small farming village, a commercial town, or a large and complex city. The rhythm and requirements of Jewish life made this necessary. The need for a quorum for public worship, the dietary regimen, and the duties to provide education, charitable services, and the like demanded the joint effort that only an organized community could provide.[38] Very often these communities were physically open; gentiles lived among the Jews. This was true in the earlier, formative period of the Jewish law in Judea and somewhat later in Babylonia. Early medieval Jewish communities in both northern and southern Europe, as well as in the Middle East, refined their legal traditions from the earlier periods to apply to newer and different urban configurations, both large and small, in which Jews at times moved freely and

37 The requirement that the attacker mollify the victim also of course appears from time to time in the responsa — see, e.g., Tsedaka b. Saadia Chutzein, d.1773, *Tsedakah Umishpat, Hoshen Mishpat* (Jerusalem, 1926) no. 45, and Abraham b. Mordecai, d.1712, *Gan Hamelekh* (Constantinople, 1716–17) no. 85. See also, Passamaneck, "Physical Violence," 40 f. and 95 f.

38 The Babylonian Talmud suggests the extent of communal resources that should be present, *b. Sanh.* 17b.

established their neighborhoods from choice, or in which their movements were constrained by anti-Jewish sentiments.[39] Since the thirteenth century, gentile authorities with increasing frequency over the years forced the Jews to live in physically restricted communities — ghettoes. In any case, over the broad sweep of Jewish history, an organized communal life was the practical means of providing and sustaining the institutions on which Jews depended.

The individuals in these communities had to deal with and to rely on each other. When a quarrel arose, or an argument erupted, and certainly Jewish communities and individuals have never been proof against such human failings, and that quarrel led to physical violence, the community was best served if the biblical prohibition against grudges was carefully enforced. A community could not afford to be broken into angry factions, and disaffected or angry individuals had to be mollified. Consequently the *halakha* insists that when violence and injury have torn the community's social fabric, the parties are duty-bound to seek and grant pardon which restores as much as possible the harmony of the group: thou shall not bear a grudge.[40] In this healing and restorative process, the injured party plays the major role; he is the one who has the power to pardon and heal — or to withhold pardon and leave a breach unrepaired. He, in a sense, becomes the moral judge or censor in the matter.

M.B.Qam. 8:7 presents the basic rule and in paraphrase provides the following:

1. Even though the attacker pays the victim all the requisite amounts of indemnity,[41] restitution, and so forth, the matter is not forgiven him — the attacker — until he shall seek pardon from the victim. This requirement is based on Gen 20:7 ff., which relates that Abimelech, who had not touched Abraham's wife Sarah, is told to return Sarah to Abraham, which Abimelech does so that Abraham, in his prophetic role, will pray for Abimelech and, as a result, thereby save his clan. Further, the victim is to grant the pardon or else become known as a cruel person.

2. This stigma of cruelty is also rooted in the Bible according to the Mishnah. In Gen 20:17 we read that Abraham did pray for Abimelech and his family so

39 See N. Hecht et al., eds., *An Introduction to the History and Sources of Jewish Law* (Oxford: Clarendon Press, 1996). The histories of various individual communities provide plenty of examples demonstrating how Jews adapted in all sorts of situations, see, e.g., n. 23 above, Baer's *History* for the changes in Spain over the centuries. See also S. Eidelberg, *Jewish Life in Austria in the XV Century* (Philadelphia: Dropsie College, 1962) and the various bibliographies provided in Hecht, et al.

40 Lev 19:18. This biblical command is never made explicit in any of these provision, but surely its spirit breathes through all of them.

41 The paraphrase of the *mishnah* follows the Maimonidean understanding of the text. Some commentaries to *mishnah* indicate that the specific sum in question does not refer to all five sums, but to the ones for indignity and public embarrassment. The text and context really support either idea; but

that a plague of barrenness which had afflicted the women of that household was healed. In fact Abimelech mollified both Abraham and Sarah. Had Abraham not responded with prayer for the lifting of the plague, he indeed would have shown a cruel streak in his nature.

At this point, the rule of seeking and granting pardon is certainly in place for serious batteries and mayhem.

As has been noted, *b.B.Qam.* 92a extends the rule of seeking and granting pardon even to a list of rather minor batteries and assaults in which no lasting physical harm is done, but the public shame suffered by the victim is significant, *b.B.Qam.* 90a f. In these cases — a slap in the face, a cuff, etc. — the victim receives a rather large specified amount of money to ease the shame, but the *baraitha* makes it clear that the embarrassment of the victim is so painful that the specific sums the attacker pays — even if handsome — do not come close to soothing the victim's outraged feelings. All the "rams of Nebaioth" would not soothe the pain of the shame, Isaiah 60:7. Thus, pardon must be asked — and granted; the *baraitha* also cites Gen 20:7 ff. as the biblical basis for the rule.

Under these classic rules, we therefore have it that whether the attacker has committed the bloodiest mayhem or an outrageous embarrassment involving some sort of battery, but with little physical consequence, that attacker must not only pay what must have been significant amounts of money as ordered by the court, but step forward to heal feelings and restore the wholeness of the community. The medieval restatements of the law retain this rule of course, and add an important element which suggests how the rabbis through the centuries attempted to restore human relationships in the aftermath of a mayhem or battery.

In *M.T. Hilkhoth Hovel U'maziq*, 5:9, 10, Maimonides combines the provisions of both the *mishnah* and the *baraitha*.[42] He puts the rule as follows:

1. Injury to a person's body is unlike injury to his property. As soon as injury to property is indemnified, the matter is forgiven. If one has injured another's body, however — even though all five payments, requisite in cases of mayhem or battery — have been paid, all the rams of Nebaioth would not bring forgiveness, nor would the iniquity be pardoned until the attacker should seek the victim's pardon; and the victim shall grant that pardon.

a. The victim shall not be cruel in this matter by withholding the pardon. This is not the Jewish way of behavior.

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emphasis on indignity in the commentary may contemplate the biblical verses, Gen 20:7 ff., where Abraham suffered no physical injury, but doubtless a public shame.

42 The reference to the rams of Nebaioth is from the *baraitha*. Cf. also Maimonides, *M.T. Hilkhoth Teshuvah* 2:9.

2. Once the attacker has besought pardon a first and second time, *and the victim knows that the attacker has turned from sin and repented of his evil act* (Cf. Jeremiah 8:6) he shall pardon him.

3. The victim who is quick to forgive is praiseworthy and the spirit of the sages is well pleased with him.

Maimonides draws no distinction between mayhem and far less brutal assaults, but clearly he is aware of the text's covering both matters since he uses the language of the *baraitha* — the rams of Nebaioth — which focuses on the matter of degradation and shame for, e.g., a slap in the face or a cuff on the ear. Any attacker is always required to seek the pardon of his victim.

The Maimonidean formulation of the talmudic material adds an interesting proviso: the victim grants pardon when he is asked — and when he knows the attacker has turned from sin and is truly repentant of the evil he has done. This provision, setting the victim up as a sort of moral judge or censor, at least for a given period, over the attacker, does not appear in geonic texts nor does it seem to figure in the discussions of this rule by any authority prior to the twelfth century. Both the *Tur* and the *Shulhan Arukh Hoshen Mishpat* adopt the provision without question and without comment. The *Tur Hoshen Mishpat* 422 states the rule as follows:

Even though the attacker has paid all five requisite sums applying in cases of mayhem and battery, there is no forgiveness from the pain of the shame which the attacker caused the victim until the victim's pardon shall be sought and granted.

a. When the attacker seeks to mollify the victim, the victim shall not be cruel and not grant pardon.
b. When the victim has been besought for pardon for a first and a second time, *and the victim knows that the attacker has turned from sin and repented of his evil act*, he shall pardon him.
c. The victim who is quick to forgive is praiseworthy, and the spirit of the sages is well pleased with him . . .

The *Shulhan Arukh Hoshen Mishpat* 422:1, presents the rule in virtually the same words as the *Tur* and Maimonides:

1. Even though the attacker has paid all five of the requisite sums applying in cases of mayhem and battery, there is no forgiveness for him until the victim's pardon shall be sought and granted.

2. It is forbidden for the victim to be cruel and not grant pardon, for this is not the Jewish way of behavior.
3. Once the attacker has besought pardon a first and a second time, *and it is known that he has turned from his sin and repented of his evil*, he shall pardon him.
4. The victim who is quick to forgive is praiseworthy and the spirit of the sages is well pleased with him . . .

Under the law, the victim stands in a position of obvious moral superiority to his tormentor, but he is also the pivotal figure in the repair of human and social relations: he can not be cruel and bear the grudge. The moral advantage is balanced by the moral responsibility, and this discharge of responsibility may not be delayed overlong.

The victim who is quick to forgive is particularly praiseworthy. But how quick is quick? No text suggests how swiftly pardon should come. Of course, first the victim has to be certain of the attacker's sincere repentance, and then presumably pardon should follow immediately in order to mend the social fabric; but this matter of the attacker's repentance requires a very close inspection.

From Maimonides onward, the victim's pardon becomes conditional on his knowledge of the attacker's moral rehabilitation. Moreover, the law in time permitted the imposition of the excommunicatory ban against the attacker until he should both pay and placate his victim.[43] If one knows that one's tormentor has sincerely repented of the evil he did, then pardon shall be swiftly forthcoming. If he does not know of any such rehabilitation and repentance, then presumably he is under no obligation to forgive. The first question this raises is why the victim should be placed in this position of moral censorship and superiority. Clearly, as the offended, shamed, and injured party, the victim has suffered wrong on various levels, including the moral one, which only he can forgive. No one else can supplant him in his relationship to his attacker. The victim has the duty to redress the moral scales after any "criminal" (or "civil"!) penalty has been discharged. Second, how does he know of any moral rehabilitation? The law provides that the attacker seek out the victim a first, a second, and even a third time, according to the *Maimonidean Hilkhoth Teshuvah*, 2:9. The attacker should bring with him groups of people who would attempt to convince the victim of the attacker's sincerity in repentance. Further, in the day-by-day activity of the community, surely the victim would receive word of his antagonist – where he is, what he is saying, how he is acting, and the like. The victim could, with very little trouble, stay current with the attacker's doings even in a community of several thousand souls, which would have been quite a large one in the medieval world. Third,

43 See, e.g., the responsa collection *Tsedakah Umishpat*, cited in n. 37 above; and Passamaneck, "Physical Violence," 40 f. and 95 f.

the victim can only pardon for the harm done to him; yet the provision appears general: the attacker has repented of his sin, presumably with respect to any mayhem or battery on his record. This presumption is reasonable because the repentance is rather incomplete and insufficient if it does not serve to purge the attacker thoroughly. How then can one victim grant wht appears to be a general pardon? That is to say, pardon shall be forthcoming when the victim shall know that his antagonist has "turned from his sin and repented of his evil." Surely this must mean he has repented of the evil done to the victim, yet if he has committed similar outrages against others, can he be properly said to have repented of his evil? It is surely quite possible to be very repentant over one incident – for instance, the act was done in error, the wrong victim was hit or the attacker realizes that he went to excess when it was not necessary – and yet not be repentant at all for other acts of the same type. When the victim pardons, he knows that his attacker is truly repentant in his own case; but should not true repentance, by definition, involve all such brutal acts? Still, no one victim can pardon on behalf of other victims of the same attacker. No general pardon should issue from a single victim even though the law clearly suggests a general repentance in this matter; on the other hand, why should the victim not pardon the attacker who is truly repentant towards him – similar outrages against others not withstanding?

This paper has referred to the peace and good order of society. This is an abstract notion, but for the present purpose not a difficult one. Peace and good order have to do with the conditions and circumstances under which people pursue the ordinary tasks of civil life. What degree of security and safety do they enjoy and are they able to establish reasonable expectations of decent and orderly behavior by others? When people can go about their normal and productive tasks secure in the knowledge that those who break the law, who harm them in some way, will not do so without serious consequences, the social fabric, always a delicate structure, will be whole. But this paper has examined two violent offenses that destroy the social fabric and disrupt the peace and order on which ordinary people rely as they go about their business.

We have observed that in both cases the Jewish legal system strives for punishment or recompense of one sort or another. But there is another element in the restoration of peace and good order. This element is shown most clearly in the case of mayhem and battery; but it is no less present in intentional homicide, as will be argued here. This is the element of pardon, atonement and forgiveness.

In the case of mayhem and aggravated battery, indeed of any battery, the offender not only pays the victim what the court has ordered him to pay, but he must seek the pardon of the victim. The victim for his part must, with as much good grace as possible one hopes, pardon the offender. Then, and only then, are the harmony, balance and peace of the society restored. This procedure obtains

even where the case against the offender is established by the victim's oath asserting the guilt of the offender. So much we have seen in substantial detail.

But what of intentional homicide? How does the element of pardon and forgiveness enter this situation? There is no living victim whose pardon may be sought or who has the power to forgive. We recall here that Jewish law strives to impose the death penalty on the offender, whether that death occurs as a result of the verdict of the court of 23, or, as would be more likely given the high standard of proof necessary for conviction, in the cells as the result of the deadly diet, or through divine agency, or through the process of royal justice or exigent jurisdiction.

In the case of intentional homicide law and theology come together. Jewish tradition acknowledges that death is the ultimate expiation of sin, and nothing could be more certain than that the offender in intentional homicide is a sinner. But from whom shall he seek pardon: the victim is gone, there is only one option left. The offender must expiate his sin and receive divine pardon through his demise. Indeed the *m.Sanh.* 6:2 informs us that persons condemned to death by stoning are urged to confess because the confession opens the door to the world to come. The essence of the confession is, "May my death be an expiation for all my sins." Once the offender has confessed, in effect exhibiting remorse and seeking pardon, analogous to the pardon in the case of the mayhem offender, the divine response is pardon, analogous to the pardon of the injured victim. Thus, where there is no longer a human victim to receive apology and respond with pardon, deity steps in. Confession and execution stand in place of seeking pardon from the victim; and divine pardon, not to mention eternal life, follow in due course.[44] Surely such a confession would apply to any condemned homicide.

Further, *m.Sanh.* 4:5 rehearses the warning to witnesses in a capital case, emphasizing the importance of human life in the tradition. It draws attention to the phrasing of Gen 4:11 where the "bloods" of the murdered Abel call out for justice against his homicidal brother Cain. The plural, bloods, suggests that witnesses must be the most careful and absolutely honest in testimony because not only does the fate of the accused depend on them but the fate of all his descendants – his "bloods." If this is so for the accused, it can be no less so for the deceased – someone, presumably the accused – has destroyed his line forever. The warning ends with a citation from Proverbs 10:11, "when the wicked die, there is joy." Human life is precious, but not sacrosanct.

The death penalty achieves another goal as well. In the case of mayhem, the offender pays and asks for forgiveness which is granted. The balance of good order has been restored. But with homicide how is that balance to be restored? Only

44 See *m.Yoma* 8:8.

the death penalty will serve here. To do anything else would suggest that the life of the offender is somehow more valuable than the life of his victim. The balance would not be restored. The tear in the social fabric would not be closed. Confession and remorse would not be enough because the sin of intentional homicide, so the Jewish tradition appears to hold, is not expiated. This is indeed a harsh and unyielding approach to intentional homicide, but Jewish tradition sets its own standards and develops its own approaches for those who offend violently against its rules. Human life is obviously not inviolable when a person chooses to do intentional murder, but simply describing the rabbinic approach as unalloyed vengeance does not suggest the important dynamic of pardon and forgiveness that appears to function in dealing with a murderer.

The restoration of peace and good order depend upon the process of paying one's just debt and damages to be sure, but it also rests equally upon a mechanism of pardon and forgiveness. The cases of violent offenders demonstrate this most clearly, yet the ordinary round of civil life and civil peace also demand constant attention to making necessary apologies and to their gracious acceptance. This is after all the requisite prelude to the humble search for divine forgiveness on the Day of Atonement.

Christianity, Christians and "New Christians" in the Sermons of Saul Levi Morteira

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Saul Levi Morteira (ca. 1596–1660), rabbi of the Portuguese community of Amsterdam during the period of its consolidation and flourishing, left manuscript texts of some 550 different sermons in addition to his published volume, *Giv'at Sha'ul*. Many of these sermons speak explicitly about Christianity, a topic of considerable resonance for a congregation composed almost entirely of listeners who had been educated as Christians, and their children. Morteira addresses the familiar theological issues with a strong polemical flair: the differences between Jewish and Christian concepts of God, Torah, and messianic redemption; the Christians' claim that the Law was impossible to observe and that they were the "New Israel"; the various ways in which Christian authorities have distorted the Hebrew Bible in their arguments.

The main thrust of these polemical passages is against the Catholic Church and its teachings, not explicitly against Protestantism. Very little is said about Jesus. This is probably what enabled him to speak so strongly in an environment where blasphemy against Christianity would have violated the ground-rules of toleration. It also suggests that, at least in the first decades of his tenure, it was the Catholic past rather than the Protestant present that retained its hold on at least some of the listeners.

When Morteira turns from religion to the Portuguese New Christians themselves, he employs a range of biblical models to explain why so many of them – including relatives and associates of his listeners – remain where they are rather than coming to join their people. Drawing on a Sephardic tradition going back to the fifteenth century, he insists that those who seek to deny their true identity will not escape divine wrath in the end of days.

What is particularly striking about these passages is not so much the specific topics they address or the arguments used, but the artistic manner in which the preacher weaves his polemic into the fabric of his homiletical message, and the apparent need of his listeners for reassurance about the decision they had made to abandon the Iberian Christian world for a life as Jews. The evidence reviewed suggests that in Morteira's judgment, in order to help his congregants build up a new identity as Jews, he had to help tear down their former identity as Christians. Despite the risks of offending Dutch neighbors, this end is pursued as vigorously and as passionately as the other, more constructive goals of his preaching.

The 1950–1951 volumes of *HUCA*, celebrating the seventy-fifth anniversary of the founding of the Hebrew Union College, bear magnificent testimony to the achievements of American Jewish scholarship in mid-century. Among its

important articles are two on Jewish sermons, dealing with two of the most celebrated Jewish preachers of their time. Israel Bettan, writing near the end of his scholarly career, analyzed the preaching of Jacob Kranz, the Dubnow Maggid (unlike his earlier *HUCA* articles, this was to my knowledge never reprinted in a book). And Ellis Rivkin, writing near the beginning of his career, probed the 1602 publication *Midbar Yehudah*, a collection of twenty-one sermon texts by renowned Venetian rabbi, Leon Modena. From that volume until now, not a single article on medieval or modern Jewish sermons has appeared in the pages of *HUCA*. I am therefore pleased to carry forward the legacy of Bettan and Rivkin with a contribution to the history of Jewish preaching focused on another of the giants in this tradition: the Amsterdam Rabbi Saul Levi Morteira (ca. 1596–1660).

The reader of Morteira's *Giv'at Sha'ul* in the Warsaw 1902 or 1912 edition would not be aware that Christianity was a particularly important theme in his preaching. Only by unpacking the somewhat cryptic editorial note that states "For a reason beyond our control, sermon 41 on the lesson *Va-Ethanan* could not be printed," and a similar statement about "sermon 49 on the lesson *Ha'azinu*," could we surmise that material pertaining to Christianity had been suppressed by a censor.[1] And indeed, the Amsterdam 1645 edition, in which both sermons appear, reveals that they contain material of a rather forceful polemical nature. In addition, several polemical passages from the sermon on *Balaq* were removed from the Warsaw editions without any editorial indication that the original text has been changed.[2] Thus the Amsterdam edition contains three sermons out of fifty in which the anti-Christian motif is quite pronounced. The five bound volumes of Morteira's sermon manuscripts in the Budapest Rabbinical Seminary include many more such passages.[3]

That material could be published at Amsterdam in 1645 that could not be printed at Warsaw in 1902 does not come as a total surprise, given the respective reputations for openness and toleration of Dutch and Polish societies. Yet seventeenth-century Amsterdam was not without its ground rules for its Jewish residents.[4] There was a difference between religious debate and toleration of

1 *Giv'at Sha'ul* (Warsaw, 1912; hereafter "GS 1912") 257, 303.

2 Compare GS 1912, 239–40 with *Giv'at Sha'ul* (Amsterdam, 1645; hereafter "GS 1645") 63c–64d and Budapest Rabbinical Seminary Hebrew Manuscript (hereafter, "MS") 1:109v–110r, *Balaq*, Num 22:13, 1639. This material will be discussed below.

3 For a general description of Morteira's 550 autograph Hebrew sermons, see Marc Saperstein, "The Manuscript/s of Morteira's Sermons," in Joseph Dan and Klaus Herrmann, eds., *Studies in Jewish Manuscripts* (Tübingen: Mohr Siebeck, 1999) 171–98.

4 Their status throughout the period of our discussion remained "residents" (*ingezetenen*), not full burghers. See the recent discussion by Miriam Bodian, *Hebrews of the Portuguese Nation: Conversos and Community in Early Modern Amsterdam* (Bloomington: Indiana Univ. Press, 1997) 60.

"blasphemy." The Jewish community was not in a position where it was free to express in public statements blatantly offensive to Christian sensibilities. Although Morteira spoke in Portuguese and published in Hebrew, offensive or impertinent statements could become known and arouse strong opposition to the Jewish presence.[5] The lay leadership of the Portuguese community (the *Ma'amad*) was extremely sensitive to this matter, more than once issuing edicts that warned against making any statements insulting to Christianity.[6] It is therefore important to note that, although some of his points would apply to Dutch Calvinism as well, the main thrust of Morteira's polemic in his sermons is against the *Catholic* Church. Protestantism is rarely mentioned explicitly, and when it is, the references are relatively benign.[7] The anti-Catholic animus of the sermons is one that was shared by many of Amsterdam's Christian citizens.[8] Only later, in his unpublished Portuguese polemical work on the eternity of the Torah, did Morteira take up the cudgels against Calvin himself.[9]

Why was it important to polemicize against a form of Christianity that the members of his congregation had already left behind and that was not at all popular in their new home? Many of those who came to Jewish communities from a Portuguese New Christian background had a strong distaste for the faith in which they had been reared and the religious hierarchy that had manned the Inquisition. Not only did they have no need to be convinced of the inferiority

5 Note the statement in Hugo Grotius's *Remonstratie* (1615): "Furthermore, the Jews may possess, use and have printed here any books, with the exception of those containing words of blasphemy or defamation" (quoted in Ralph Melnick, *From Polemics to Apologetics: Jewish-Christian Rapprochment in 17th-Century Amsterdam* [Van Gorcum: Assen, 1981] 15); cf. the discussion by S. W. Baron, *A Social and Religious History of the Jews* 15 (New York: Columbia Univ. Press, 1973) 27–29. This follows the wording of the privilege approved by the town council of Amsterdam in 1605 ("they must refrain from blasphemy or derision of the Christians, not only in print but also in words during their ceremonies in the synagogue"), which was reiterated in a town ordinance of 1616: Arend Huussen, Jr. "The Legal Position of Sephardi Jews in Holland, *circa* 1600," *Dutch Jewish History* 3 (1993) 24, 27; Simon Schama, *The Embarrassment of Riches* (Berkeley: Univ. of California Press, 1988) 591. The leadership of the Jewish community had to promise not to offend through religious disputes as a condition of their formal admission to Amsterdam, and the Jewish Communal Regulations (*Ascamot*) of 1638–39 threatened punishment by fine for anyone who insulted the Christian religion (Arnold Wiznitzer, "The Merger Agreement and Regulations of Congregation Talmud Torah of Amsterdam (1638–39)" *HistJud* 20 [1958] 130).

6 See on this Joseph Kaplan, *Les nouveaux-Juifs d'Amsterdam* (Paris: Chandeigne, 1999) 137–38.

7 See, for example, the passage cited in Marc Saperstein, "History as Homiletics: The Use of Historical Memory in the Sermons of Saul Levi Morteira," in Elisheva Carlebach, John Efron, and David Myers, eds., *Jewish History and Jewish Memory* (Hanover: Brandeis Univ. Press, 1998) 126.

8 On the anti-Catholic animus of Morteira and others in his orbit, cf. Joseph Kaplan, *From Christianity to Judaism: The Story of Isaac Orobio de Castro* (New York: Oxford Univ. Press, 1989) 259–60. On the anti-Catholicism of the Calvinist predikants, see Bodian, *Hebrews of the Portuguese Nation*, 55.

9 Saul Levi Morteira, *Tratado da verdade da lei de Moisés*, ed. and trans. H. P. Salomon (Coimbre, Por Ordem da Universidade, 1988); cf. Bodian, *Hebrews of the Portuguese Nation*, 72–73.

of Christianity, they actually engaged in polemical activity themselves.[10] But for others, apparently, geographical displacement did not always bring about psychological distance. Perhaps the powerful polemical sermons delivered by churchmen at the *autos-da-fé* continued to take their toll on some level of consciousness.[11] Some listeners needed reassurance that their decision to break from the past was correct. It is such reassurance that Morteira's polemical passages provided.

Christianity

Let us begin with the relationship between the two religions. The theme of Christianity as an *imitation* of its parent religion has a long history in Jewish polemical writing of the Middle Ages.[12] This motif enabled Jewish polemicists to turn the Christian claim of being the "New Israel" on its head by depicting the newer religion as a pale copy of the old. Morteira emphasizes this derivative character of Christianity on several occasions. The most detailed statement comes in a major sermon for the Sabbath of Repentance delivered in 1641. The homiletical context is important: here he is concretizing the fulfillment of a biblical prophecy of punishment. God warns, *I will incense them with a non-people* (Deuteronomy 32:21), by subjecting them to a people that is not God's but that claims all of the qualities that God gave to Israel.[13] The similarities between Christianity and Judaism are not accidental but providential:

> For behold, regarding the categories within the [Christian] nation, they have divided them as we do into priests and Levites with rights to tithes and a kind of High Priest patterned after us. They have invented a congregation of seventy-one, a kind of Sanhedrin.[14] Look at the holy days of the

10 Well known examples are Isaac Montalto, Isaac Cardozo, and Isaac Orobio de Castro. Morteira's eulogies and the writings of Hugh Broughton allow us now to add the figure of David Farar: see Marc Saperstein, *"Your Voice Like a Ram's Horn"* (Cincinnati: HUC Press, 1996), chap. 16, especially 371–73.

11 See Edward Glaser, "Invitation to Intolerance: A Study of the Portuguese Sermons Preached at Autos-da-fé," *HUCA* 27(1956)327–85.

12 See, for example, the statement by Jacob Anatoli in *"Your Voice Like a Ram's Horn,"* 61 and parallels there in n. 12.

13 Morteira may well have known that Christian authors used this verse to validate supersessionist claims. For example, Martin Luther, commenting on this verse, wrote, "And to the present day the Jews are irreconcilably angry with us for denying that they are the people of God and for asserting that according to this verse we are the people of God." See his "Lectures on Deuteronomy," in *Luther's Works* (55 vols.; St. Louis, Philadelphia: Concordia Publishing House, 1958–1967) 9: 294–95. Cf. below, n. 51.

14 The number of cardinals was fixed at 70 by Pope Sixtus V in his bull "Postquam verus" of December 3, 1586 (see *The Catholic Encyclopedia* [15 vols.; New York: Appleton, 1907–12] 14:34a). The "Consistory," in which the pope met together with the cardinals, would thus have appeared as a "kind of Sanhedrin." Needless to say, the number 70 was not based on the Jewish Sanhedrin, but may have derived from the 70 elders in biblical times.

> year: they have made like us a kind of Sabbath and Pesach and Shavuot. They have invented a "jubilee" year.[15] The structure of their communion is patterned after our prayer of sanctification (*Qiddush*) and blessing over bread (*Motsi*). The text of their liturgy is derived from our prophets. The "miracles" they placed in their books are precisely those that are written in our Sacred Scriptures – there is nothing else, as we have discussed at length in its proper place, showing one by one what corresponds to everything of theirs. Their baptism they took from our immersion of the ritually impure. And so with many of the things they boast were given them by God.[16]

The message seems to be quite clear: you know that Judaism is the older faith, you have the authentic, original version, why be tempted to settle for the imitation?

This emphasis on the similarities between Christianity and Judaism has its dangers, however, as a listener might conceivably draw an unwanted conclusion: What difference does it make which was original and which was derivative? If the rituals in the two faiths are so similar, why sacrifice to choose the less powerful option? In his late *Treatise on the Truth of the Law of Moses*, Morteira frequently makes a different argument: that fundamental Christian beliefs and values reveal the influence not of Judaism but of paganism.[17] But the responsible preacher will have to communicate a positive message as well, highlighting aspects of Judaism's uniqueness. We see this in a sermon on the lesson *Pinhas*, probably delivered in the late 1630s. At first, Morteira simply enumerates the areas of imitation in which "they attribute to themselves the stature of Israel: their prayers, their priests, their raiment, their names." But his point here is

15 The "jubilee" or Holy Year was first proclaimed by Pope Boniface VIII for the year 1300. In 1468, Pope Paul II decreed it would be observed every 25 years, and that was the practice in Morteira's time.

16 MS 3:312r, *Ha'azinu*, Deut 32:21, 1641:

כי הנה בחלקי האומה חלקוה כמונו בכהנים ולוים במעשרות ומעין כ"ג דוגמתנו בדו קהלה במספר ע"א מעין הסנהדרין הנה חגי השנה מעין השבת פסח ושבועות יעשו כמונו, יבדו להם שנת היובל, תקון קרבנותם מעין קדוש והמוציא שלנו, נוסח תפלותם כדברי נביאנו, הניסים אשר נתנו בספריהם הלא הם ממש ככתובים בספרי הקדש לא זולתם כמו שהארכנו במקומו א' לא' בכל אשר נתנו, טבילתם לקחו מטבילתנו הטמאים, וכן בכמה וכמה ענינים אשר בהם מתפארים כי כמתנות אלהיות להם ניתנו.

It is not clear to me to what "place" Morteira is referring when he cites his detailed discussion of the "miracles" described in the New Testament. Usually when he refers to one of his sermons, he does so more explicitly than this. It may be to one of the vernacular polemical treatises, perhaps his "Tratado das Controuersias dos Euangelios," which he cites several times in his "Treatise on the Truth of the Law of Moses" (*Tratado*, 827 and 1039, and see Salomon's notes on pp. 1242 and 1249); this is, apparently, the same work cited below in nn. 24, 74, 87, 100. In the "Tratado," completed much later than this sermon, Morteira incorporated a passage quite similar to the one cited here: "Particularmente, ordenaraõ frades à imitaçaõ dos sacerdotes, clerigos à imitaçaõ dos leuitas, el papa a modo do Sumo Pontifice. Ordenaranlhe as dezimas como na Lej deuina se mandaua dar aos sacerdotes, as festas aos tempos e modo das antigas, a hostia e cea à imitaçaõ do cordero pasqual. E tudo isso para pareser e representar hum nouo Jsrael." *Tratado*, 129. Cf. also GS 1645, 86d.

17 E.g., *Tratado*, 387 (on the myth of a woman impregnated by a god).

different: that God preserved the Hebrew language as the unique possession of the Jewish people to maintain its distinctiveness. For "if, God forbid, they were to praise God in the holy tongue, they would indeed boast excessively and claim that they were the children of Israel."[18]

There is another theoretical problem to be addressed. In comparing two religions that share so much, how can one be sure which is the genuine expression of God's will? Morteira addresses this issue in a sermon on Exodus 31:13, introducing the polemical point through a reference to military tactics.

> An analogy is the practice of those who guard the walls to give each other signals known to no one else, so that the enemy will not trick them at night and, not being recognized, come [?] to climb the walls and seize the city. That is what God said: Note that in everything I have done, the counterfeiters can fabricate and trick you by saying to you that a certain person is God, and that you should accept him, for "I, I am he." Through your naïveté, he may enter and seize the city, for he may boast of doing all the miracles that I have done, and the way is then paved before them to say that they were like mine. However, I have given you a great signal, by which you can distinguish truth from falsehood, and God from one who is not God. That is, if he should create a different world, then he may then claim to be God. . . . But no one has ever done such a thing. Thus it is an unmistakable signal that he is not God.
>
> Similarly, if there should arise another people that boasts that it is chosen, it is Israel, God's people, God's treasure, let not your hands be weakened, even if they boast of all the good things I did for you, saying that they possess holiness, and prophecy, and Torah, and esoteric doctrines, and divine lovingkindness, and whatever else may occur to them. For I give you a great signal: so long as they cannot assert and confirm that I have redeemed them from the land of Egypt, they are not My people. This is what King David said, *Who is like Your people Israel, a unique nation on earth, whom God set out to redeem so it would be His people* (2 Samuel 7:23). This is impossible for anyone other than you. And that is why God engraved this signal almost everywhere in the Torah.[19]

18 MS 1:45v, *Pinhas*, Num 26:6:
איך שמר ה׳ לשון הקדש מידי המתראים והמתדמים בקדושים בכל ענייניהם ומייחסים אליהם המעלה הישראלית בכל אשר יכולו בתפלותיהם בכהניהם לבושיהם שמותיהם ואילו חלילה ישבחו את ה׳ בלשון הקדש הלא יתפארו מאד מאד לאמר כי הם בני ישראל.

19 MS 4:178r, *Ki Tissa*, Exod 31:13, early 1640s:
ודוגמתו הוא מה שנוהגים שומרי החומות לשמור זה לזה סימנים אשר לא ידער בהם זולתם כדי שלא ירמו אותם בלילה האויבים להתנכר אליהם ולבוא בא[??]ים לעלות חומותיהם וללכוד את העיר. כך אמר ה׳, הנה בכל הענינים אשר עשיתי יוכלו המזייפי׳ לזייף ולרמות אתכם ולומר לכם שהוא אלק׳ ושתקבלו אותו

In its homiletical context — as an explication of *a sign between Me and you* (Exod 31:13) — the point of the analogy with guards giving passwords and signals to identify the loyal soldier from the enemy in disguise is to explain the signs of authenticity for the Jewish people in its relationship to God. But the deeper implication tears down the opponent as well. Through the analogy with the "enemy," Christian "imitation" of Jewish practices and institutions, leading to the Christian claim of being the "true Israel," is presented as not just misguided but also devious and subversive. And this is not merely an attack on the claims made by leaders of the Church. Jesus is not mentioned by name, but no one would have missed the allusion to one who "claims to be God." This claim, attributed by implication not to later theologians but to Jesus himself, is subsumed under the analogy of the enemy who resorts to deception for insidious purposes.

On many other occasions, Morteira felt compelled to emphasize fundamental differences between the religion his congregants had abandoned and the religion they had now chosen for their own. We see the emphasis on difference despite apparent similarity in a sermon for the lesson *Va-Yishlah* delivered circa 1633. As this biblical passage is a narrative of the encounter between Jacob and Esau after a separation of many years, many of Morteira's sermons on this lesson are built upon a typological approach to the verses.[20] The fact of typological significance which the preacher emphasizes is that Jacob and Esau, despite being twins, were absolutely different from each other in every way except for their voice:

> Thus even though they were equal in voice, from this they diverged from each other in a great and essential way. One drew near to God and set God before him always (cf. Psalms 16:8), the other would say to God, "Leave me alone" (cf. Job 21:14). In this too there is something of a wonderful hint of their descendants. Even though in the quality of their voices they may be equivalent — for each one says that he is the chosen, the elder, the blessed — yet in substance one constantly makes mention of God's name, while

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כי אני אני הוא ויכנס בתמימותם וילכוד אותה כי יתפאר בעשות כל הניסים אשר עשיתי כי הדרך סלולה לפניכם לומר שהיו כמוני. אולם סימן גדול אני מוסר לכם בו תבחנו האמת מן השקר והאלק׳ ממי שאינו אלק׳ והוא שיברא עולם אחר ואז יאמר שהוא אלק׳ . . . והנה לא נמצא מי שיעשה כך, אם כן סימן גמור הוא שאינו אלק׳.

כמו כן אם יקום עם אחר ויתפאר לאמר שהוא הנבחר ושהוא ישראל ועם ה׳ וסגולתו, אל ירפו ידיכם אעפ״י שיתפארו בכל הטובות אשר עשיתי לכם ויאמרו כי להם הקדושה והנבואה והתורה והסודות והחסד וכל אשר יעלה על לבם, כי סימן גדול אני מוסר לכם כי כל עוד שלא יאמרו ויאמתו כי פדיתי אותם מארץ מצרים אינם עמי, כמו שאמר דוד הע״ה ומי כעמך ישראל גוי אחד בארץ אשר הלכו אלקים לפדות לו לעם, וזה אי אפשר להיות בזולתכם. ועל כן חקק הי״ת הסימן הזה כמעט בכל התורה.

20 On Morteira's use of typology, see, Saperstein, "*Your Voice Like a Ram's Horn*," 30–32. For the use of typology in Portuguese Christian anti-Jewish preaching, see Glaser, "Invitation to Intolerance," 300.

> the other bestows God's glory upon another. He may praise God with his mouth, but he gives his adoration to statues. Thus in truth, one is a goat and the other a sheep, which though both being in a common category of flock, yet their names are totally different.[21]

Here we see a strong assertion of Christianity, or at least Catholicism, as idolatry. Rhetorically, he draws upon the New Testament motif of separating the sheep from the goats (Matthew 25:32–33) to dramatize the significance of the two kinds of animals mentioned in the sermon's theme verse (Genesis 32:15) enumerating the animals in Jacob's offering to Esau.

More extensive treatment of this theme can be seen in another sermon for the lesson *Va-Yishlah*, delivered a few years after the first. Referring to earlier sermons on the subject, Morteira reiterates the underlying typological principle in the introduction: "It is not unlikely that what happened to our father Jacob and to Esau is a hint to his descendants, that we may thereby derive from his affairs comfort and knowledge and counsel as to how we should behave regarding what happens to us with Esau's descendants."[22] Then in the body of the sermon, after discussing the differences between the twins in the biblical context, he turns to the religions of the twins' descendants. Judaism and Christianity are "two great opposites that cannot co-exist in the same subject. This is the meaning of the phrase, *we have come into fire and water* (Ps 66:12): we have come to a conflict like that of fire and water."[23] This antithetical character is illustrated in considerable detail with regard to fundamental beliefs pertaining to the past, present, and future.

The difference pertaining to the past —"the most fundamental difference of all"— lies at the heart of theology. It applies to the belief in God, which is bound up with "absolute primordial existence."

> Now we know how distant our belief is from theirs in many specifics touching upon this matter.
>
> First is the matter of the simplicity of God, the repudiation of corporeality from Him in every respect, as He emphasized in several places of His

21 MS 5:55v, *Va-Yishlah*, Gen 32:15, ca.1633:
הנה אם כן אף כי היו שוים בקול הנה משם יתפרדו לפרוד עצמי וגדול, זה קרוב אל ה׳ וישוהו נגדו תמיד וזה יאמר לו סור ממני. אף בזה יש בו מן הרמז המופלא לבניהם אחריהם כי אף כי בהברת הקול יהיו שוים כי זה וזה יאמר שהוא הנבחר והבכור והמבורך הנה בעצם זה יזכיר שם שמים תמיד וזה כבודו לאחר יתן וישבחהו מפיו ויתן תהלתו לפסילים, באופן כי באמת זה עז וזה כבש כאשר הם נכללים תחת סוג הצאן ועם כל[?] יתפרדו כ״כ בשמות. . . .

22 MS 5:63r, *Va-Yishlah*, Gen 32:18 (1636 or 1638): אינו רחוק כי מה שאירע ליעקב אבינו ועשו הוא רמז לבניו וניקח כפי זה מענייניו נחמה ותודעה ועצה טובה איך נעשה במה שיקרה לנו עם בניו.

23 Ibid., 63v: שני הפכים גדולים אשר לא יוכלו להמצא בנושא א׳ וזהו „באנו באש ובמים״ ר״ל באנו למחלוקת האש והמים.

Torah. . . . But the descendants of Esau believe that He was incarnated in a woman's womb.

Second is the matter of absolute unity that God taught us: *Hear O Israel: the Eternal our God, the Eternal is one* (Deut 6:4). . . . But the children of Esau believe that He is three.

Third is the matter of His eternity and primordial existence, that He is the first and the last, and He is the living God, as He taught us through His prophet. But the descendants of Esau believe that He was subject to death and that he died.

Fourth is the matter of melancholy and imperfections, which are totally distant from Him. But the descendants of Esau believe that he was subject to them, that He was depressed, that he became a *man of suffering* (Isaiah 53:3).

Fifth is the matter of divine judgment: that God has control over forgiveness and atonement, that He is *gracious and compassionate* (Exod 34:6), that He freely forgives. Yet the descendants of Esau believe that He has no capacity to do this without assuming something that makes the hair of all who hear it bristle: namely, the death of God Himself!

Can there be any differences greater, more enormous, than these?[24]

This passage does indeed touch upon the essential points of Jewish and Christian belief about God. Morteira is not concerned here with the subtleties of Christian theology. He reduces Christian belief to a series of simple propositions that overlook the distinctions between God the Father and God the Son with regard to the Incarnation and the ways in which Christian theologians defended the unity of the triune God. The polemicist, addressing an audience committed in principle to Judaism, need not worry about oversimplification. The Christian propositions are presented in a manner that makes them seem absurd on their face and contrary to explicit statements of the Bible. Rhetorical power derives

24 Ibid: והנה ידענו כמה רחוקה אמונתנו מאמונתם בכמה פרטים ונוגעים בענין הזה. ראשונה בענין פשיטות האלקי והרחקת הגופניות ממנו ב"ה מכל הצדדים כמו שהקפיד על זה כ"כ בכמה מקומות מתורתו. . . . ובני עשו יאמינו כי נתגשם בבטן אשה. והנה שנית בענין האחדות הגמורה אשר למדנו ה' שמע ישראל ה' אלקינו ה' אחד. . . ובני עשו יאמינוהו שלשה. שלישית בענין נצחיותו וקדמותו כי הוא ראשון והוא אחרון והוא אלקים חיים כאשר למדונו בנביאו, ובני עשו יאמינו כי נכנע אל המות וימות. רביעית בענין העצבות והחסרונות הרחוקים ממנו בכל האפשר, ובני עשו יאמינו כי נכנע אליהם ויתעצב ויהי איש מכאובות. וחמישית בענין דינו ית' כי לו היכלת על הסליחה ועל הכפרה וחנון ורחום הוא ומרבה לסלוח, הנה יאמינו בני עשו כי אין היכולת בידו על ככה אם לא בשומם דבר אשר תסמרנה שערות שומעו והוא מיתת האלק' עצמו. היש הבדלים גדולים ועצומים כאלה?

On the final point, cf. the formulation in Morteira's "Argumentos contra los Evangelicos, Actos, y Epistolas," (Argument 36): According to Christian belief, God "cannot grant Divine justice: that in order to pardon an ordinary sin, committed by only one willful person, he committed one so grave, as to have His son killed by the hand of an entire people" (quoted in Mellnick, *From Polemics to Apologetics*, 31, 66).

from the parallelism of the refrain —"but the descendants of Esau"— building to the hyperbole drawn from Job 4:15 (*making the hair of my flesh bristle*), and the rhetorical question at the end. One can imagine the congregation nodding in satisfaction.

Morteira has imposed his own ordering upon the central theological differences between Christianity and Judaism, perhaps to make it easier for listeners to remember, dividing these differences into issues that pertain to past, present, and future. After bringing his first section to a conclusion with a characteristic homiletical flourish and recapitulation, he moves on to the second:

> The enormous difference between these two nations pertaining to the present is in the matter of the Torah and the divine commandments. With all their might and strength, they have attempted to annul and to replace the Torah with another. About this, Daniel says, *He shall devise to alter the customary plans and law* (Daniel 7:25). They did not, however, succeed, for the Torah is God's [plan] and *God's plan shall endure forever* (Ps 33:11). That is why Daniel says, *He shall devise*, meaning, he shall think, but not do. Their attempt is made in various devious ways.[25]

That the status of the Torah and the commandments is a major issue between Judaism and Christianity would come as no surprise. The eternity of the Torah is one of the central themes of Morteira's oeuvre, to which he would later devote his monumental polemical treatise in Portuguese. Here he introduces in passing the claim that Christians not only deny the continuing validity of the old law, but substitute new laws that they claim are divine but are not — a theme rather different from his emphasis on the Christian imitation of Jewish practices in other sermons. These changes were described by Daniel, who predicted the emergence (and even the subsequent history) of Christianity.[26]

The passage continues with a concise recounting of various Christian arguments justifying their belief that the commandments of the "Old Testament" have been abrogated:

> Sometimes they will say that the basis of all is faith, and all deeds are really superfluous, and when the Torah is in the heart, perfection has been ac-

25 Ibid: וההבדל המופלג השני אשר בין בני אלו האומות והוא בערך הזמן ההוה הוא בענין התורה והמצוות אשר בכל כוח ועוז יבקש לבטלם ולהביא אחרת תחתיה כמאמר דניאל על זה, ויסבור להשניא זמנין ודת, אולם לא יעלה בידו כי ע[צת] ה' היא ועצת ה' לעולם תעמוד ולכן אמר ויסבור ר"ל יחשוב ולא יעשה וזה בנכלים מנכלים שונים.

26 On the use of this verse, cf. *Tratado*, 599–601, 1067; Yom-Tov Lipman Mülhausen, *Sefer ha-Nizzahon* (Altdorf-Nurenberg 1644, reprinted Jerusalem, 1984) 180. Maimonides already found a prediction of Jesus in Dan 11:14: see *Mishneh Torah, Melakhim*, chap. 11 (in the unexpurgated version).

quired [as is written?] at length in their books. But they have not remembered God's word that states, *in your mouth and in your heart to do it* (Deut 30:14).

And sometimes they will say that the commandments are bound up with the land [of Israel], and with the exile of the Jewish people the Torah has been annulled. But they have not seen God's word, *When all these things have befallen you, the blessing and the curse which I have set before you, if you take them to heart in all the countries to which the Eternal your God has banished you, if you return to the Eternal your God and obey Him heart and soul in all that I command you this day, you and your children, then the Eternal your God will restore your fortunes* (Deut 30:1–3).

And sometimes they will say that it has already been annulled at the instruction of God, who brought charges against them. But they have not remembered what is written, *You shall faithfully keep the statutes, the judgements, the law, and the commandments which He wrote for you, and you shall not pay homage to other gods. You shall not forget the covenant which I made with you; you shall not pay homage to other gods* (2 Kings 17:37–38). And there are many such proofs for each one of these arguments. . . .

If so, there is before us a great, enormous difference between Jacob and Esau, like the difference between fire and water. May God in his great power help and preserve us among them![27]

Each of these three arguments could be explicated at length in terms of Christian doctrine and polemical literature. In the present context, a few brief points will be made. The first is a reference to the doctrine of salvation by faith alone, without the necessity of works. It is formulated in a rather extreme form, suggesting that all human actions are devoid of religious consequence, a doctrine associated

27 Ibid: פעם באומרם כי עיקר הכל היא באמונה וכל המעשים הן אך למותר וכאשר תהיה התורה בלב הנה השלמות קנוי בכתוב באורך בספריהם. ולא זכרו מאמר האל האומר „בפיך ובלבבך לעשותו.״

ופעם יאמרו כי הם תלויות בארץ ובגלות ישראל בטלה התורה. ולא ראו מאמר האל, „והיה כי יבואו עליך כל הדבים האלה הברכה והקללה אשר נתתי לפניך והשבות אל לבבך בכל הגוים אשר הדיחך ה׳ אלקיך שמה ושבת עד ה׳ אלקיך ושמעת בקולו בכל אשר אנכי מצוך היום אתה ובניך בכל לבבך ובכל נפשך ושב ה׳ אלקיך את שבותך.״

ופעם יאמרו כי כבר נתבטלה מפי האל אשר קבל עליהם. ולא זכרו מה שכתוב, „ואת החוקים ואת המשפטים וההתורה והמצוה אשר כתב לכם תשמרום לעשות כל הימים ולא תיראו אלקים אחרים. והברית אשר כרתי אתכם לא תשכחו ולא תיראו אלקים אחרים.״ וכאלה רבים מן הראיות בכל א׳ מן הענינים האלה. . . .

אם כן הרי לפניך הבדל גדול ומופלג בין יעקב ועשו כהבדל האש והמים ביניהם וה׳ בגודל כחו יעזרנו וריקיימנו ביניהם.

In 1639, Morteira returned to this theme in a sermon on Gen 32:19 from *Va-Yishlah*, recapitulating this passage on Christian attacks against the Torah and mitzvot. There he says (MS 5:62r), "I have already responded against them at length." It is unclear to me whether reference is to the sermon we have been discussing, or to a polemical tract.

more with radical Protestant denominations than with mainstream Catholic piety. As we shall presently see, a similar doctrine, focusing not so much on faith as on the intention of the heart, is attributed by Morteira to New Christians who use it to justify their own failure to observe the commandments. (A year or so later, when Morteira recapitulated these three arguments in a sermon on the following verse, he formulated the first claim differently: "Sometimes they say that [the commandments] have an inner meaning, and that there is no need to observe them according to their simple meaning."[28] This puts the emphasis on exegesis, not on psychology.) Morteira's response is based on the formulation of Deut 30:14, in which the infinitive "to do" follows the words that emphasize internalization, as if to say that what is in one's heart has no significance unless it is accompanied by action.

The second argument draws upon a Jewish distinction between commandments valid only in the land of Israel and those that are valid everywhere, and applies them to all the commandments of the Torah. We find this already in the sermons of John Chrysostom, who used it as an argument to delegitimize contemporary Judaism, insisting that observance of the biblical commandments was not only superfluous but actually a violation of God's will. The sages felt the need to respond to this claim by explaining the function of the commandments outside the land, apparently setting out to refute not just Christian polemicist but Jewish sectarian positions as well. There are also references to this claim in literature closer to Morteira's time, including the polemics of Martin Luther.[29] Indeed, this was an important theme in the Portuguese *auto-da-fé* sermons, in which preachers argued that Jewish ceremonies were valid only in the land of Israel and were an affront to God when performed elsewhere.[30] The

28 MS 5:62r, *Va-Yishlah*, Gen 32:19, 1639: פעם יאמרו כי יש להם צורה ואין צורך לשמרם על פשוטם. "This formulation is apparently based on the unexpurgated end of chap. 11 in Maimonides, *Code, Melakhim* (a passage cited by Morteira in MS 1:39v, *Tazri'a*, Lev 13:13, ca. 1645, apparently from the Constantinople 1509 edition). For a vernacular statement of this claim, see Morteira's *Tratado*, 1149.

29 John Chrysostom, Discourse 4.4.4–4.5.6, 5.1.5, 5.4.1, in Wayne Meeks and Robert Wilken, *Jews and Christians in Antioch in the First Centuries of the Common Era* (Missoula: Scholars Press, 1978); cf. Martin Luther, "Against the Sabbatarians," in *Luther's Works*, 47:66, 79, 83–84. For Jewish responses to this claim, see Nahmanides on Lev 18:25, citing Sifre; Jacob Mann, "An Early Theologico-Polemical Work," *HUCA* 12–13 (1937–1938) 412, 428–29, 452; Abraham Farissol in David Ruderman, *The World of a Renaissance Jew: The Life and Thought of Abraham ben Mordecai Farissol* (Cincinnati: HUC Press, 1981) 43–44. For an encompassing survey of the status of the commandments outside the land of Israel, see Aviezer Ravitzky, "'*Hatzivu Lekha Tziyunim' le-Tziyon: Gilgulah shel Ra'ayon*," in Moseh Halamish and Aviezer Ravitzky, eds., *Eretz Yisrael ba-Hagut ha-Yehudit BiYmei ha-Beinayim* (Jerusalem: Yad Izhak Ben-Zvi, 1991) 1–39.

30 Glaser, "Invitation to Intolerance," 353. According to Glaser, "Domingos Barata tells of a dispute with a rabbi residing in Holland whom he tried to convince that the celebration of Mosaic rites in the Low Lands countered God's prohibition. The rabbi resolved this 'dilemma' by denying that such an interdiction appeared anywhere in the Scriptures." (Barata's sermon was published in Evora, 1717:

response is taken from the same passage in Deuteronomy 30, which indicates that observance of the commandments in exile is a prerequisite for redemption.

As for God's nullification of the commandments in the context of a complaint lodged against the Jewish people, it is not clear to me what specific claim Morteira may have in mind. It may refer to the widespread Christian assertion that although God had once ordained the Sabbath and festivals, the prophets bear witness that God now despises these Jewish observances.[31] But there seems to be an allusion to a formal declaration by God that the covenant with its structure of commandments has been dissolved, which would go beyond anything found in the prophetic literature. As in the previous passage, the three claims are presented with a structural parallelism, reinforced by the repetition of key words: "Sometimes they say. . . . But they have not remembered. . . ." The formulation of the rebuttal implies that the Christian adversaries, ignorant of obvious biblical verses, are hardly worthy antagonists for a knowledgeable Jewish spokesman.

As is already clear to the listener from the previous two categories, the third area of antithesis between Judaism and Christianity set up by Morteira applies to the future:

> The third difference between the two religions, pertaining to the future time, is in the matter of the promised Messiah. The children of Esau have wanted to take their signs as true signs (cf. Ps 74:4) to make us despair and lose hope, and to revile the footprints of the Messiah we hope for (cf. Ps 89:52), by saying that he has already come and there is nothing to look forward to. To strengthen their position, they have set their hands upon all the prophecies and the good promises that together sing jubilantly of confidence and future hope. Some of them have said that these prophecies are figurative and hyperbolic language, which enables them to claim that they have already occurred. Some of them have said that they refer to spiritual matters that exist in heaven. Some of them have said that they have already been fulfilled in the redemption from the Babylonian exile. In this way they think they have pulled everything down and weakened our hands.[32]

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p.331 n.21). Cf. also Mildred Vieira and Frank Talmage, eds., *The Mirror of the New Christians of Francisco Machado* (Toronto: Pontifical Institute of Mediaeval Studies, 1977) 277–79.

31 See, e.g., Machado, *Mirror of the New Christians,* 235 (addressed to "judaizing New Christians"): "Why do you observe the Sabbath and the feasts of the Law of Moses? Do you not see that all these things are abhorrent to God? . . . I tell you that this [Mal 1:10] is nothing more than God's decision to renounce your sacrifices, as Malachi rightly proves, and to give the sacrifice of the altar to the Gentiles."

32 MS 5:63v–64r, *Va-Yishlah,* Gen 32:18 (1636 or 1638):
ואולם ההבדל הג׳ אשר בערך הזמן העתיד בין שתי הדתות הוא בענין המשיח המיועד אשר רצו לשום בני עשו אותותם אותות וליאש את ידינו מן התקוה ולחרף עקבות המשיח המקוה לומר כי כבר בא ואין לצפות [לו?]. ולחיזוק דבריהם שלחו יד בכל הנבואות והיעודים הטובים אשר יחדו יראנו הבטחון והתקוה העתידה.

As in the second category, there is a review of various positions taken by Christian thinkers, suggesting the preacher's mastery of the polemical literature of the adversary and their inability to reach consensus about an important doctrinal point.[33] In this case, the rebuttal is not introduced immediately but only at the end of the passage, through a homiletical interpretation of Ps 93:5.

We have, in short, a schematic treatment of the fundamental differences between Jewish and Christian faith, organized under the categories of past, present, and future — which refer to doctrines of God, Torah, and redemption. In each, the Christian beliefs are set forth and then quickly torn down, without particularly deep or prolonged argumentation investigation. The basis of the rebuttal is primarily biblical, not philosophical. The style is that of the debater.

Many of the points of doctrine touched upon briefly in this sermon are explored in greater detail elsewhere. One of the issues that lies at the heart of the Pauline critique of Judaism relates to the Torah, commandments, the possibility of justification in God's sight, and the mechanism of atonement for sin. Is observance of the commandments the way to fulfill the divine will? What kind of atonement will set things right with God when sin occurs? These issues are addressed in a sermon on Exod 10:16 in the lesson *Bo*, delivered ca.1640, much of which is devoted to the theme of repentance. The preacher first sets out the Christian position:

> The opponents of the Torah, in order to weaken the hearts of those who keep it from doing so with constancy, have fabricated the novel idea that this Torah is indeed impossible to keep, in two respects. First, *there is no one so righteous in the world as can do good without sinning* (Ecclesiastes 7:20). But there is no remedy for such sin, for it is a sin against the infinite,

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מהם אמרו כי הם משל ודוגמא וכפי זה מצאו פתח פתוח לומר כי כבר היו, ומהם אמרו שענינם רוחניות והנם בשמים, ומהם אמרו שכבר נתקיימו והיו בגלות בבל ובגאולתנו, באופן כי כפי זה חשבו להפיל הכל ולרפות את ידינו.

33 On the Christians' figurative interpretation of prophecies, cf. (in a slightly different context) Isaac Orobio de Castro, cited in Glaser, "Invitation to Intolerance, 331, n. 21: "Mas vos dezis . . . que el sentido de todas estas Prophecias, deve ser mistico, alegorico, methaphorico." An example from the New Testament is Paul's "allegorical" application of Isa 54:1 to Sarah representing the "Jerusalem above," as opposed to the historical earthly Jerusalem, in Gal 4:27. Jerome insisted that the kingdom envisioned in the book of Daniel would be spiritual and heavenly, not material and terrestrial: see Robert E. Lerner, "Refreshment of the Saints: The Time after Antichrist as a Station for Earthly Progress in Medieval Thought," *Traditio* 32(1976)102, and John O'Connell, *The Eschatology of Saint Jerome* (Mundelein, Ill.: Seminary of Sancta Maria ad Lacum, 1948) 64–72. Seventeenth-century Puritan writers insisted that there was no point in claiming to Jews that the prophetic promises of restoration were to be understood spiritually, for in response, "the Iewes laugh at us." See the sources cited by Linda Munk, *The Devil's Mousetrap: Redemption & Colonial American Literature* (Oxford: Oxford Univ. Press, 1997) 63. On fulfilment of prophecies during Second Temple period (also an issue in internal Jewish literature), see Kaplan, *From Christianity to Judaism*, 283, citing Philip van Limborch.

and the sinner therefore deserves infinite punishment, which is impossible for him [in this life]. Thus he remains in his sin and is lost. Second, even if it should be assumed that such a sin is not by its nature infinite, as this syllogism indicates, one who sins against the Torah has no remedy because God said explicitly that such a person is accursed. We see this in the verse, *A curse upon the person who does not fulfill this law by doing all that it prescribes* (Deut 27:26). Whoever bears such a curse has nothing with which to pay off his debt. In this way, they have tried to weaken the hands of those who keep the Torah of our teacher Moses. They have craftily devised contrivances to set these snares, as is well known.[34]

Morteira thus spells out two aspects of the Christian argument against Torah as a means to salvation. The first is philosophical in nature: since God is infinite, a violation of God's command is of infinite magnitude, incurring infinite debt, and there is nothing a human being can do to repay it.[35] The second argument is a paraphrase of Paul's argument in the Epistle to the Galatians (3:10), *For all who rely on the works of the law are under a curse; for it is written "A curse upon the person who does not fulfill this law by doing all that it prescribes"* (Deut 27:26).[36] These are fair statements of the Christian position, and we sense it has put the

34 MS 4:59v, *Bo*, Exod 10:16, ca. 1640:
בדו מנגדי התורה מלבם כדי להרפות לב שומריה מהתמדת בה כי התורה ההיא אי אפשר להשמר משני פנים, הא' „כי אין צדיק בארץ אשר יעשה טוב ולא יחטא" ובחטוא אין לו תקנה כי החטא הוא נגד בב"ת [בלתי בעל תכלית] וראוי אם כן החוטא לעונש בב"ת וזה אי אפשר לו ואם כן נשאר בחטאו ונאבד. והב' כי אף שיונח שאין החטא מטבעו מכח הקש זה בב"ת הנה החוטא נגד התורה אין לו תקנה כי כבר פירש ה' שהוא ארור כמו שכתוב „ארור אשר לו [צ"ל לא] יקים את דברי התורה הזאת לעשות אותם" ומי שהוא ארור אין לו דבר במה לשלם חובו. ועל כן רצו להרפות ידי עושי תורת משה רע"ה [רבינו עליו השלום] וינכלו להם נכלים והמצאות לתקן אם הדרחקים האלו כידוע.

35 Cf. the discussion of the Christian doctrine in the polemical treatise written by Morteira's mentor, Elijah Montalto: "the sin [of the first human being], being infinite, would require infinite atonement, which no man could accomplish; and thus it became necessary that the second person of the Trinity (which they invented) become incarnate and die for man for the expiation of the sin" (cited in Melnick, *From Polemics to Apologetics*, 27). Morteira's formulation does not refer to the doctrine of "original sin." For earlier Jewish discussion of this doctrine, see Hasdai Crescas, *The Refutation of the Christian Principles*, trans. Daniel Lasker (Albany: SUNY Press, 1992) 29–30. The issue of infinite sin had arisen in the controversy over the doctrine of eternal punishment that erupted in the mid-1630s. Isaac Aboab de Fonseca, who repudiated the traditional doctrine, argued that Morteira's position supported the Christian doctrine: if eternal and therefore infinite punishment existed, it could be justified only by an infinite sin, which could be atoned only by the infinite sacrifice of God's Son. See Alexander Altmann, "Eternality of Punishment: A Theological Controversy Within the Amsterdam Rabbinate in the Thirties of the Seventeenth Century," *PAAJR* 40 (1973) 51, 75 [1–88].

36 On the argument from Galatians using Deuteronomy 27:26, cf. David Berger, *The Jewish-Christian Debate in the High Middle Ages* (Philadelphia: JPS, 1979) 79 and 265 n. to lines 9–10. Cf. Morteira's analysis of this verse in *Tratado*, 1149, turning it around to apply to the Christian spiritualizing of the commandments.

preacher on the defensive. Unlike the previous sermon, here his purpose will not be to attack the Christian faith but rather to defend Judaism.

Morteira responds to these arguments by using verses from the lesson *Nitsavim*, particularly appropriate in that they present first a rebuttal of alien ideas and then a positive statement of the Jewish doctrine of repentance.

> *For this commandment that I command you today* (Deut 30:11) namely, repentance, is not under suspicion because of those reasons. *It is not too difficult for you* (Deut 30:11), as if to say that it requires an infinite penance and you are finite and cannot achieve it. This is not the case. It is not too difficult for you: it is appropriate for you, it corresponds to you, it is indeed for you. Similarly, you should not say that being in your hands, it requires enormous effort, and that you can attain it only with difficulty. *Nor is it too remote* (Deut 30:11).
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> Concerning the first point, he said, *It is not in the heavens* (Deut 30:12). This means, since there is no need for an infinite remedy, *It is not in the heavens*. That would indicate that as a remedy for transgression, it was necessary to have a person who would ascend to the heavens and make atonement for the entire people, being as it were from the heavens rather than from the earth in order to be able to atone for an infinite matter.
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> Concerning the second, he said, *nor is it beyond the sea* (Deut 30:13), as if God had established distant and difficult acts of penance and one had to travel beyond the sea to seek them out. They were precise about this: several kinds of animals live only in the wilderness or in the mountains, yet God commanded as a sacrificial penance only domesticated animals that grow up in the stalls of human beings. If so, how can there be a need for such forced contrivances?
>
> For *it is not too difficult for you, nor is it too remote* (Deut 30:11), but *It is a thing very near to you, in your mouth and in your heart to do it* (Deut 30:14). For upon this depends the penance for what has been perverted, upon this depends the essence of repentance. They are three matters upon which repentance stands, namely, abandonment of the sin, confession, and contrition. They correspond to the three categories of human action: thought, speech, and deed: contrition corresponds to thought, confession to speech, and abandoning the sin to deed. This is the meaning of *in your mouth and in your heart to do it*.[37]

37 MS 4:59v, *Bo*, Exod 10:16, ca.1640:
„כי המצוה הזאת אשר אנכי מצוך היום" רצוני בתשובה„ אין בה שום חשש מן הטעמים האלה. „לא נפלאת היא ממך" לומר שצריך תקון בב"ת ואתה ב"ת ולא תוכל לה. אין הדבר כן. „לא נפלאת היא ממך" היא כערכך ולעומתך ממך היא הדבר. וגם כן לא תאמר שבהיותה בידיך תצטרך לטורח גדול ובקושי תוכל

The use of the biblical phrase *It is not in the heavens* (Deut 30:12) to repudiate the Christian doctrine that a sacrifice of infinite value, the atoning death of the Son, was the only means of making reparation for the inevitable infinite sin against God, seems obvious, although it does not seem to have been used extensively by Jewish writers before. Note that in this context, Morteira is not attacking the Christian doctrine of atonement as impossible or absurd, as other philosophically inclined Jewish polemicists do, but only as unnecessary. Nor does he deal here with the Christian doctrine of Original Sin as requiring infinite atonement. The main thrust of the argument is to assert that, contrary to Christian claims, the Bible presents a doctrine of atonement that is readily accessible to the Jew for any sin he may commit, and fully adequate to set things right with God. The discussion of this doctrine, in Jewish terms, will occupy him for the rest of the sermon.

Another example of a specific issue subsumed under the general category of the abrogation of the commandments pertains to the continuing validity of the Sabbath. The discussion arises in a sermon we have already cited, containing the analogy of passwords and signals to distinguish the enemy soldiers attempting to pass for allies. As that sermon is based on Exod 31:13, it is little surprise that the Sabbath will be a significant theme. The instruction in the verse is introduced by the apparently superfluous conjunction *akh*. After mentioning other interpretations of its function, Morteira finds in this word a polemical meaning: God revealed in it a decisive refutation of those who reject the holiness of the Sabbath day. Characteristically he begins by citing the Christian argument justifying the abandonment of Saturday:

להשיגה. „ולא רחוקה היא." ועל הראשונה אמר „לא בשמים היא" ר"ל מעתה שאינה צריכה לתיקון בב"ת „לא בשמים היא" לומר שהיה מן הצורך לתקון העבירות מי שיעלה השמים ויכפר בעד כל העם ויהיה כמו מן השמים ולא מן הארץ כדי שיוכל לכפר דבר בב"ת. ועל השנית אמר „ולא מעבר לים היא" שקבע לה הי"ת תיקונים רחוקים ודחוקים שצריך ללכת מעבר לים לבקשם. וכמו שדקדקו בכמה מיני ב"ח שברא ה' במדברות ובהרים ומ"מ לא יצוה ה' לתקון הקרבנות אלא מן הגדל בישוב על אבוסו של אדם. ואם כן אין צורך להמצאות ודוחקים כי „לא נפלאת היא ממך ולא רחוקה" אלא „קרוב אליך הדבר מאד בפיך ובלבבך לעשותו," כי בזה תלוי תקון המעוות ובזה תלוי עקר בתשובה, כי הם ג' ענינים אשר עליהם התשובה עומדת דהיינו עזיבת החטא וידוי וחרטה והם כנגד ג' חלקי הפעולה מחשבה דבור ומעשה, חרטה כנגד המחשבה וידוי כנגד הדבור עזיבת החטא כנגד המעשה, וזהו „בפיך ובלבבך לעשותו."

The point in the second paragraph that God specified for sacrifices easily attainable domestic animals, not exotic wild ones, is based on Numbers Rabbah 21,16. On the components of repentance, compare Maimonides, *Hilkhot Teshuvah* 2, 2 (where two additional components pertaining to the mind are added). Cf. Ephraim Luntshitz, *Keli Yaqar*, ad loc. "כי קרוב אליך הדבר בפיך הוידוי ובלבבך החרטה ואז די לך בזה בתשובה לעשותו" Unlike Morteira, however, Luntshitz interprets not as a third component of repentance, but as an indication that the two components are sufficient to effect it. Closer, though still different, is Elijah Vidas, *Reshit Hokhmah, Teshuvah* 1,3: ולדעתי יישוב הפסוק . . . בפיך – ודוי דברים, שצריך להתוודות, ובלבבך – קבלת התשובה בלבו ועזיבת החטא, לעשותו – אם גזל שישיב הגשילה וכיוצא.

> They are so brazen as to have changed [the Sabbath] for a different day. In explanation, they say, "The purpose of this commandment is what God explained in the Ten Commandments: *Six days you shall do work, and on the seventh day you shall rest* (Exod 23:12). Therefore, so long as we do work for six days, whichever they may be, and we rest on the seventh day, we have fulfilled the divine commandment. There is no need to count them from any particular day. Thus there is no need to observe your Sabbath day."

The refutation is based on the word "*akh*," understood to mean "but" in the sense of "only":

> Only, exclusively, My Sabbaths shall you observe, and no others that you may invent to replace them. Those Sabbaths which I set first from the beginning; those Sabbaths on which I Myself rested; those Sabbaths about which it was said, *For six days you may gather it, but on the seventh day, the Sabbath, there will be none* (Exod 16:26); those Sabbaths which My people has observed from ancient days. *Only My Sabbaths shall you observe* (Exod 31:13).[38]

Here the congregation is given a rationale that would justify shifting the Sabbath to a different day of the week, based on the purpose of the commandment. If it were intended simply to mandate a weekly day of rest, then any day in the week would do as well. The refutation of this claim by appeal to a Hebrew conjunction is clever, but not sufficient to outweigh the plausibility of the argument. Therefore the pounding parallel phrases beginning with "those Sabbaths which," insisting that the seventh day has a special sanctity, ordained by God and confirmed throughout the Bible, that cannot be displaced to a different time.[39]

38 MS 4:177v, *Ki Tissa*, Exod 31:13, early 1640s:
ויעיזו פניהם להחליפו ביום אחר לאמר הלא תכלית המצוה הזאת היא אשר ביאר הי"ת בעשרת הדברות „ששת ימים תעשה מלאכה וביום השביעי תשבות" (כך), ועל כן כל עוד שנעשה מלאכה ששה ימים איזה שיהיו וביום השביעי להם נשבות הלא בזה קיימנו מצות האלקים ואין צורך למנותם מיום פרטי ומיוחד, ועל כן אין צורך בשמירת יום השבת שלכם. . . .
„אך את שבתותי תשמורו," ד"ל רק וזולת שבתותי תשמורו ולא אחרים אשר תבדו תחתיהם. אותם השבתות אשר קדשתי מראשיתם. אותם השתות אשר שבתתי בו אני, אותם השבתות אשר עליהם נאמר „ששת ימים תלקטוהו וביום השביעי שבת לא יהיה בו," אותם השבתות אשר שמרו עמי מימי עולם, „אך את שבתותי תשמורו."

39 This was not the common Christian claim about the Sabbath, as it concedes something most Christian authorities did not accept: that the commandment to cease from work one day each week was still binding. Although some early Christians did apparently observe Sunday as a day of rest (see the Council of Laodicea, Canon 29; Caesarius of Arles taught that Christians must observe the Lord's day as Jews observe the Sabbath), the classical view, expressed, for example by Thomas Aquinas, was that ceasing from manual labor was a ceremonial command, abrogated with the coming of the Messiah, while the moral aspect of the Sabbath — honor and love of God expressed through a day devoted to prayer and refraining from sin — remained valid. See Berger, *Jewish-Christian Debate*, 255,

Another sermon containing an extensive and vehement attack on Christian doctrine is the sermon on the lesson *Balaq*, delivered in 1639 and included in the 1645 edition of *Giv'at Sha'ul*. (As we have noted, the polemical passages in the sermon were omitted without any indication in the Warsaw editions.) The theme of Christian distortion of the Bible emerges quite forcefully from a section of Psalm 119, focusing on verse 85, which provides the title of the sermon, *Sihot Asher Lo Ke-Toratekha*: "Now after his prayer, [King David] set out before God the obstacles which his enemies concealed for him in order to weaken his commitment of faith in God's words and laws, saying *Evil men have dug pits intended for me, not in accordance with Your law*" (Ps 119:85).[40] The interpretation shifts the time frame from the biography of David to a prophecy of future Christian misuse of the Bible:

> In this he alluded to the first type of tactics used by the Gentiles to falsify the words of the living God. This is by telling the masses biblical passages cut, clipped, lopped, unconnected with what came before them or after them, and binding to these verses a "proof" instead. In this way they implant all kinds of falsehood in people's hearts.
>
> Our witness for this is the verse, *The young woman is with child* (Isa 7:14). But they fail to link it with *It was in the time of Ahaz* (Isa 7:1) or *Before the child knows [to reject evil and choose good, desolation will come upon the land]* (Isa 7:16). Similarly, *I called my son out of Egypt* (Hosea 11:1). But they do not cite the beginning of the verse, *When Israel was a boy I loved him.* Similarly, *For the Lord has created a new thing upon the earth, a woman shall compass a man* (Jeremiah 31:22). But they do not cite the beginning of the verse, *Come back O virgin Israel, come back to your cities; how long*

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n. to line 1; Crescas, *The Refutation of the Christian Principles*, 75 and 127 n. 69; Machado, *The Mirror of the New Christians*, 235; Martin Luther, "Against the Sabbatarians," in *Luther's Works*, 47:92–93. For a Jewish attack on the practice of Christians to perform work on Sunday, see Berger, *Jewish-Christian Debate*, 45, 96, 237–38. Various Protestant Sabbatarian movements, including Socinians in sixteenth-century Transylvania and Mennonite Anabaptists in Holland, required a day of rest on the seventh day of the week, not on Sunday.

Could Morteira have been referring to a New Christian rationale? New Christians were generally accused not of failing to work on Sunday but of marking the traditional seventh day through various observances (Glaser, "Invitation to Intolerance," 355–36; David M. Gitlitz, *Secrecy and Deceit: The Religion of the Crypto-Jews* [Philadelphia: JPS, 1996] 317–53). Furthermore, the context is one that justifies the shift to Sunday of classical Christianity. The precise resonance of the passage remains to be determined.

40 MS 1:109v, GS 1645, p. 63c, 1912, p. 239. The following passage does not appear in the Warsaw edition; the editor replaced it with the statement, "that is, they dug pits for me in Spain and Portugal so that I would turn away from Your law," words absent from the manuscript or the 1645 edition, that actually pervert Morteira's meaning by suggesting it was the Jews who turned away from the Torah rather than the Christians.

will you twist and turn, my wayward child? (Jer 31:21–22).[41]

Thus the forceful image in the words of the poet, *Evil men have dug pits intended for me, not in accordance with Your law* (Ps 119:85). He called them evil men because they act maliciously with intention. For the matter is as clear as the sun, yet they perpetrate these falsifications in order to attain their desire. And he said "pits" because just as a person who digs a pit or a ditch in the ground removes what was previously there so that someone will fall into it, so they have done to me: they have dug in your Torah – the level ground – and made a pit in it so that I might fall down. And this is against Your law, and "not in accordance with Your law," for when I see the matter in its proper place, it is not as they say.[42]

The illustrations in this passage presuppose specific knowledge about Christian use of three prophetic verses. While the first, used by Christians about the virgin birth, would undoubtedly have been familiar to most listeners, the second and third might not have been, and it is unlikely that even those who knew Christian polemical literature would have been able to make the association as they were quickly cited by the preacher. The passage does not depend, however, on the listeners' internalization of the details. The preacher presents himself as an authority in his claim that Christian proof-texting falsifies by removing verses from their context. And the claim that this is done not out of ignorance but with the intent to mislead – a claim much more understandable for the Catholic tradition that discouraged the laity from reading the Bible themselves than for Protestants – leaves the listener with the impression of an uncompromising attack drawn from King David himself.

The polemic continues with the succeeding verse from the same Psalm, *Help me, for they hound me with their lies, but Your commandments all stand forever* (Ps 119:86). Morteira explains this to mean, "while they acknowledge the Torah [as God's revelation,] they claim that its time has already passed." This introduces the theme of the abrogation of the Torah, which we have seen in the *Va-Yishlah* sermon cited above, including the use of Dan 7:25 as a prophecy of this Christian doctrine (see at n. 25). The third type of falsification, linked with Ps 119:87,

41 The first of these was one of the most fiercely disputed verses in Jewish-Christian polemical literature, starting from its use in the birth narrative of Matt 1:23. In addition to the lexical dispute over the meaning of the noun *'almah*, a characteristic Jewish response was that the Christian interpretation removed the verse from its context. See Berger, *Jewish-Christian Debate*, 104. On Hos 11:1, used in Matt 2:15 as a prophecy fulfilled by Jesus, the Son, see Machado, *The Mirror of the New Christians*, 65 and n. 19. On Jer 31:22, see Berger, 152 and p. 302, annotation to p. 152 line 9; Machado, *Mirror of the New Christians*, 143 (citing the verse in Portuguese as *femea parir ho varão*, "a woman shall bring forth a male child," which purportedly must refer to the miraculous virgin birth). Morteira returned to this material in a sermon on *Pinhas* (MS 1:93a, Num 26:10), in which he recapitulated the Christian falsifications and distortions, citing the same three examples of phrases taken out of context.

42 MS 1:109v, GS 1645, p. 63c, *Balaq*, Num 22:13, 1639.

applies to another theme in the prior sermon: the doctrine of the prophecies pertaining to the future redemption of the Jewish people. Here too the material was removed from the Warsaw editions:

> He taught by this that while they acknowledge God's promises and prophecies, they interpret them as pertaining to different times, saying that they are spiritual promises, and that they will be fulfilled at a different time, not in this world, and that they were given to the Christians themselves, for whoever wants to lie sends his witnesses far away, as is known from their words. This is why the poet says, *They had almost swept me from the earth* (Ps 119:87).[43]

Here the verse is interpreted to mean that they almost succeeded in removing the prophetic promises of redemption from being situated in this world by recasting them as metaphoric language about a purely spiritual reward in heaven. Unlike the other passages, this one contains no explicit rebuttal of the Christian claim; it is almost as if the Christian refusal to take the prophesies of redemption according to their simple meaning is so blatantly absurd that it requires no response.

With the fourth type of falsification, we return to concrete examples of biblical exegesis. "The poet explained a fourth falsification, saying, *Grant me life, in accordance with Your lovingkindness, that I may guard the testimony of Your mouth* (Ps 119:88). The following passage too was removed from the Warsaw editions:

> In this he taught the fourth method of falsification: their adding and subtracting from the Holy Scriptures at will in order to sustain what they want. An example is their interpreting Isaiah 53 [as if it read] "to them" (*lamo*) instead of "to him" (*lo*).[44] And similarly, *One who is anointed shall be cut off and no one will be for him* (Dan 9:26) they translated "One who is anointed shall be cut off and his people will not be those who did not believe in him."[45] [*Dogs have surrounded me . . .*]; *like a lion (ka-ari) my hands and my feet*

43 MS 1:110r, GS 1645, p. 63d–64a. For the phrase הרוצה לשקר ירחיק את עדיו, found not in the Talmud but in medieval Sephardic halakhists, see Moshe Sever, *Mikhlol ha-Ma'amarim ve-ha-Pitgamim* (3 vols.; Jerusalem: Mosad ha-Rav Kook, 1961) 2:620. The precise wording is found in the *Responsa* of Tashbetz, pt. 3, no. 9.

44 The elliptical passage is not clear even with re-reading. Reference must be to Isaiah 53:8, which reads, מפשע עמי נגע למו. The Vulgate translates, "propter scelus populi mei percussi eum," "for the wickedness of my people, I have struck him." Thus Morteira must have meant to write לו במקום למו, rather than למו במקום לו. Recapitulating this material in a later sermon (cf. above, n. 41 end), Morteira corrects the error, writing, "לו" העתיקו "כמו נגע למו" (1:93v, *Pinhas*, Num 26:10). The 1645 edition adds another error by transcribing Isaiah 23 instead of 53, misreading Morteira's *nun* for a *kaf*.

45 Vulgate: "occidetur Christus, et non erit eius populus qui eum negaturus est"; cf. Berger, *Jewish-Christian Debate*, 132, 290 n.4; Yosef Yerushalmi, *From Spanish Court to Italian Ghetto* (New York: Columbia Univ. Press, 1971) 428–29.

> (Ps 22:17) [they translated] "they have dug into [*karu*] my hands and my feet."[46] Similarly, *A redeemer shall come to Zion* (Isa 59:20) [they interpret] "a redeemer shall come from Zion."[47] *The young woman is with child* (Isa 7:14) they translated "the young woman will conceive."[48]

One wonders here how much of this highly condensed passage would have been intelligible to the listeners. Needless to say, there is just too much information expressed in too elliptical a manner to grasp at a first hearing. It is, of course, possible that Morteira expanded a bit in his Portuguese delivery, explaining the issues that were involved so that at least some of those in the congregation could follow him. But it is also possible that this, like other terse polemical passages we have seen, were intended to be taken on faith, as if to say, "You can believe me that the Christians mistranslate and misinterpret, and I can provide you with many examples as proof."

Having classified his material and marshaled his specific evidence, Morteira now turns back to a general indictment of falsification. The underlying problem is the failure of Christians to read Bible in the original Hebrew. This passage too is absent from the Warsaw editions:

> All this they have dared to do in their translations because the books of Torah and Prophecy do not appear before the Gentile peoples in the language in which they came from the mouth of Divine Majesty, but rather in translations to the language of each people. Therefore the translators can do whatever they want. And that is why the poet said, *Grant me life, in accordance with Your lovingkindness, [that I may guard the testimony of Your mouth]* (Ps 119:88), meaning, set out for me what I need to live, and preserve me, for I alone can guard the testimony of Your mouth in its true form as it actually came forth from Your mouth, without addition or subtraction. For through God's lovingkindness, only the Jews have preserved the Holy Scriptures as they are, without translation, while the Gentiles, having seen the weakness of their faith, worked their will with the Scriptures, seeking out falsifications in order to buttress it with these changes.[49]

46 Vulgate: "foderunt manus meas et pedes meas"; cf. Berger, *Jewish-Christian Debate*, 150, 301 n.31; Yerushalmi, *From Spanish Court to Italian Ghetto*, 429–30, n.46.

47 Vulgate: "Et venerit Sion redemptor"; cf. Berger, *Jewish-Christian Debate*, 116: "the heretics refer this to Jesus."

48 Vulgate: "Ecce virgo concipiet." Cf. Berger, *Jewish-Christian Debate*, 104. MS 1:110r, GS 1645, p. 64a.

49 Ibid. Cf. Immanuel Aboab, *Nomologia, o discursos legales* (Amsterdam, 1629) 214, 243–44: "y muchos passos en que clarament alteran, y contradizen a la pureza de la verdad Hebrayca . . . anadiendo en algunos lugares, en otros omitiendo, y en otros alterando cosas essencilaissimas" (quoted in Mellnick, *From Polemics to Apologetics*, 46, 78).

Of course this passage cuts in various ways. It is a strong assertion of Christian intellectual dishonesty, which – like other arguments of Morteira – turns the opponent's argument on its head. Beginning in the Middle Ages, some Christian thinkers began to suggest that Jews actually knew the truth of Christianity, and refused to accept it not out of blindness but out of demonic perversity. Here it is the Christian intellectuals who are fully aware of the weakness of their claims, yet deceive the masses of believers by concealing from them the Hebrew original and exposing them only to inaccurate translations that prove their point. On the positive side, Morteira reasserts Jewish uniqueness as custodians not only of the text of the Hebrew Scripture but of its authentic meaning. But there must also be a message to a congregation of worshippers some of whom still could not read the Bible in Hebrew. So long as you depend on our Spanish translation, the implication seems to be, you are no better than the Gentiles. If you want to be an authentic Jew, learn Hebrew.[50]

Nearing its completion, Morteira ties in the four Christian arguments, previously related to four verses in Psalm 119, with Balaam, the subject of the Torah lesson. As with the story of Jacob and Esau, this account also is read typologically: "God has presented in the account of Balaam, occurring at the beginning, when they were in the wilderness, an analogy and a prototype of what would occur to them among the nations during the long period of exile. For while these nations acknowledge prophecy, they seek to falsify in four ways, just as Balaam did, but it was of no avail to him." After correlating the four Christian arguments with references to the Balaam narrative, he concludes, "If so, we can truly and properly say that Balaam was a prototype for the fourth kingdom and its scholars." In his final moments he turns to a verse from *Ha'azinu* (Deut 32:21), that he would develop into the basis for a full-length sermon for the Sabbath of Repentance two years later:

50 Morteira emphasized the importance of Hebrew for an understanding of the Bible in an early sermon on *Toledot*, delivered ca.1622: "With great wisdom God arranged to hint the secrets of the Torah in the holy language, the language unique to the people of Israel. Even when the other nations study it and try to translate the Torah, they cannot convey in their language even one percent of its allusions and mysteries, for these are bound up with the numerical equivalents of the letters and their forms. Words may be written sometimes *plene* and sometimes not, a distinction that always conveys some special esoteric significance. Sometimes there are dots over the letters. Sometimes the word is written one way but pronounced a different way. Thus when a person tries to translate it, he immediately loses the esoteric meaning of these passages" (MS 3:247a, *Toledot*, Gen 25:23). In this passage, Morteira speaks of a genuine though futile effort to translate the Torah accurately, while in our sermon he proposes a conscious intent to defraud.
כמו כן בחכמה גדולה תיקן ורמז סודותיה בלשון הקודש לשון מיוחד לעם ישראל ואף כי ילמדוהו שאר אומות וירצו להעתיקה הנה לא ויכלו לכוין בלשונם א׳ מני אלף מרמזיה וסודותיה כי הם תלוים בחשבון האותיות בצורתם בהיות המילה מלאה ופעמי׳ חסרה והכל בסוד גדול וכונה פרטית ופעמים נקוד על הכתוב ופעמים כתיב באופן אחד וקרי באופן אחר באופן כי ברצות אדם להעתיקו הנה יאבד מיד סוד הענינים האלו.

> *They incensed Me with a non-god*, by saying "You are my God" to one who is not divine, *"so I will incense them with a non-people"* (Deut 32:21), for others will say to the Jews that they are God's people, they are Israel, while the Jews are not. This truly incenses. *They vexed Me with their false gods*, their foolishness, their lies; *I will vex them with a nation of fools* (Deut 32:21) that will utter a thousand inanities and lies against the Torah, but they will not be able to deny that the Torah of the Jews is from God and that the Jews have the covenant of salvation.[51]

As with so many of Morteira's sermons, all the strands are woven together at the end. The polemic is given an exegetical texture; the verses from Psalms and the Torah lesson are shown to pertain not to the distant past but to the ongoing struggle with a powerful rival faith.

In addition to matters of doctrine, Morteira discusses aspects of Roman Catholic spirituality and practice. The following example, from a sermon on *Va-Yiqra* (Leviticus 1:6) delivered in 1629, is a polemical response to a challenge by Christian polemicists. The introduction to the sermon begins with a statement from the Talmud (*b. Qidd.* 70a) that he says is confirmed by common experience: "Whoever declares others unfit . . . stigmatizes with his own blemish." This is the case with "the fourth kingdom, namely Edom," the common reference to Christianity centered in Rome.

> Thus some of them cynically and falsely rebuke us for what is in truth and by nature in them. Among the other things of this category — some of which are *words against the Most High* (Dan 7:25) — one of them pertains to our theme verse. It is something I have seen in their books, and also something cited by [Rabbi Joseph Albo,] the author of *Sefer ha-'Iqqarim*, in the 25th chapter of part 3 of his book. This is a challenge brought against him by one of their mouth-gaping scholars, saying that the divine service of sacrifices in the Torah is not pure, but rather filthy because of blood and skins and fats and the killing of animals, all of which causes defilement. They speak at length of such things, may the lying lips that speak libels about the Righteous One of the Universe be struck dumb![52]

With this passage, compare Isaac Cardoso, cited by Yerushalmi, *From Spanish Court to Italian Ghetto*, 426–27.

51 MS 1:110r, GS 1645, p. 64c–d. The Warsaw edition (1912, p. 240) not only removes the anti-Christian barbs, but substitutes the editor's own statement reflecting a different agenda: *"so I will incense them with a non-people* (Deut 32:21), *that will say to them that Israel has ceased to be a nation, that they are no longer a people like other peoples, but only a group of certain individuals."* This seems to be directed against assimilationists who denied Jewish peoplehood and national aspirations; the editor thus — without any indication — shifts Morteira's polemic from the religious to the national level.

52 MS 22:37r, *Va-Yiqra*, Lev 1:6, 1629:

The statement of the challenge is fairly close to that recorded in a celebrated polemical chapter from Albo's classic work. But Albo's response to this challenge is a relatively moderate defense of the Temple sacrifices, accompanied by a critique of the Christian "sacrifice" as having no empirically verifiable efficacy and entailing a doctrine (transsubstantiation) that goes against reason.[53] Morteira's pugilistic response is highly charged with indignant emotion:

> They have not seen that they try to disqualify us with their own blemish! For none of the forms of idolatrous worship that preceded them was as steeped in impurity and squalor as their own worship. Even the worship of Peor [Numbers 25:1–5], which was so despised, was not nearly as despicable as their impurity. This can be seen first from the burial of the dead in their churches. It is God's command that the body of the dead is the most severe source of impurity, and God prohibited allowing it to remain overnight within the city (Deut 21:23). Wherever Jews dwelled, their cemeteries were outside the city domain.
>
> Furthermore, look at the power of their veneration of bones and skulls of the dead. To them they burn incense, to them they bow down, before them they fall and prostrate themselves. The extensive use of bones of the dead by those who summoned up ghosts and spirits (Lev 20:27) has not dried up . . . . They filled many large houses with bones that were worshipped, until God made this public through His prophet, proclaiming the destruction of this impurity with the words, *I will remove the spirit of impurity from the land* (Zechariah 13:2). For this impurity passes every border and boundary; it is therefore called the "spirit of impurity" because of its powerful prevalence. I do not mention the impurity of those who serve [this religion?], for that is a lengthy matter.
>
> Yet with all this, they have the gall to criticize us for the very things that are decisively found in themselves![54]

ישחיתו לגנות אותנו על שקר כמה שנמצא בהם באמת ובטבע, ובין שאר הדברים אשר הם מזה המין ובהם מלין לצד עלאה ימללו אחד מהם הוא אשר יעורר פסוק נושאנו והוא כפי מה שראיתי מחכמיהם וכן לפי מה שהביא הרב בעל העקרים פ׳ כ״ה מן המאמר הג׳ מספרו על קושיא שהקשה אליו א׳ מחכמיהם פוערים פה לאמר כי עבודת התורה בקרבנות לא טהורה היא אלא מלוכלכת בדמים ועורות וחלב ושומן ובהריגת בעלי חיים אשר כולו ממה שגורם בטינוף, והאריכו בדברים, אלו תאלמנה שפתי שקר הדוברות עתק על צדיקו של עולם!

53 Joseph Albo, *Sefer ha-'Iqqarim*, book 3, chap. 25. Morteira refers to this chapter again in MS 5:62r, *Va-Yishlah*, Gen 32:19, 1639, citing the Christian claims that the Torah is imperfect, as reported by Albo.

54 MS 2:37r, Lev 1:6, 1629:

והם לא ראו כי במומם פסלו יען מכל העבודות אשר קדמו להם מן האלילות לא היתה משוקעת בטומאה ובטינוף כעבודתם. כי אף פעור שהיתה כ״כ מאוסה לא הגיע במרחק רב למיאוס טומאתם. וזה מבואר ראשונה מקבורת המתים בבית תפלותם אשר בציווי האל להיות גוף המת החמור הטומאות אשר אסר האל להלינו בתוך העיר ובכל עיירות ישראל היו בית הקברות חוץ לעיר.

ועוד תוקף יראתם הוא בעצמות מתים וגולגלות, להם יקטרו ולהם ישתחוו לפניהם יכרעו ויפולו. לא

In this passage, Morteira does not even bother to defend the sacrificial cult. That will come later in the sermon. Instead, he moves directly to the attack. The association of Christianity with pagan idolatry is pronounced. No longer is Christianity portrayed as an imitation of Jewish practices and institutions; rather, it is presented in continuity with the forms of pagan worship described in the Bible. Pouncing on a practice he considers particularly repugnant — the veneration of bones of the saints and the use of the church as a place of burial — the preacher presents it as worse — more impure — than any of its predecessors, even the sexual licentiousness associated with the worship of the Moabite Baal-Peor.[55] As important as the cult of the saints was for medieval Christian popular piety,[56] Morteira undoubtedly knew that many would not describe it as central to Christianity, and that many Protestants (who made the same argument against Jewish sacrifices) attacked the veneration of relics.[57] It is another debater's trick: to defend one's position by attacking at the weakest point of the opponent.[58] The vehement diction is buttressed by the claim that this is only

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נחרבה עסק האובות והידעונים עם עצמות המתים . . . אשר ימלאו בתים רבים וגדולים מן העצמות הנעבדות עד כי פרסם האל ית׳ ע״י נביאו בהודיעו אבדן הטומאה ואמר, ,,ואת רוח הטומאה אעביר מן הארץ,, כי הטומאה הזאת עברה כל גבול וגדר ונקראת רוח הטומאה לעוצם רבריה ותוקפה. ואיני זוכר טומאת משרתיה כי ענין ארוך הוא.

ועם כל זה העיזו פניהם להטיח נגדנו כדברים האלה אשר בהם ימצאו בהחלט!

55 Actually, pagan writers such as Julian "the Apostate" and Eunapius of Sardis expressed similar abhorrence for these Christian practices: "they collected the bones and skulls of criminals who had been put to death for numerous crimes . . . made them out to be gods, and thought that they became better by defiling themselves at their graves." See Peter Brown, *The Cult of the Saints: Its Rise and Function in Latin Christianity* (Chicago: Univ. of Chicago Press, 1981) 7. Brown presents the Christian transfer of relics as a "rapid and flagrant departure from pagan and Jewish practice" (p. 78). Christian apologists, both in antiquity and in the Counter-Reformation period, tried to defend the practice through purported precedents in the Hebrew Bible; see Jerome, cited by Caroline Bynum, *The Resurrection of the Body in Western Christianity, 200–1336* (New York: Columbia Univ. Press, 1995) 93, and the 1564 sermon of Martin Eisengrein, cited in Philip Soergel, *Wondrous in His Saints: Counter-Reformation Propaganda in Bavaria* (Berkeley: Univ. of California Press, 1993) 110.

56 There is an enormous literature on this; see the annotated bibliography in Stephen Wilson, *Saints and Their Cults* (Cambridge: Cambridge Univ. Press, 1983), and the fine recent treatment by Bynum, *The Resurrection of the Body*, esp. 104–8, 200–25, 320–28.

57 E.g., John Calvin: "When supplication is made to the images of saints, and divine honours paid to dead men's bones . . . we call them abominations as they are" — J.K.S. Reid, ed., *Theological Treatises* (Philadelphia: Westminster Press, 1954) 188; Calvin published an entire *Traité des réliques* on this issue in 1543. See, in general, Carlos Eire, *War Against the Idols: The Reform of Worship from Erasmus to Calvin* (Cambridge: Cambridge Univ. Press, 1972). The repudiation in principle of burial in the church as contrary to the dignity of religion apparently did not come until the eighteenth century, when it was linked with arguments from hygiene and public health. Philippe Ariès, *The Hour of Our Death* (New York: Vintage Books, 1982) 479.

58 Cf. the similar attack on the practice of taking the bones of the dead as holy relics in *Sefer Nitsahon Yashan*: Berger, *The Jewish-Christian*, 225. Morteira was apparently so proud of his argument that he referred back to it a little more than a year later in a sermon on the lesson *Huqqat* (MS 2:123r, Num 19:9, 1630): "For already in our sermon on the lesson *Va-Yiqra* we shut the mouths of those who

one example of Christian weakness. The others, pertaining to theology and "the impurity of those who serve"— apparently an allusion to immorality among the celibate clergy — are introduced in passing, suggesting that an even stronger attack could be mounted, but this is not the time.[59]

New Christians

The published sermons of *Giv'at Sha'ul* give little indication of how significant was the problem of the New Christians in Morteira's preaching. These sermons contain a few brief references, which might well be interpreted as conventional fare arousing little passion and generating no particularly deep thought.[60] The manuscript sermons give quite a different impression. To be sure, other subjects, both exegetical and conceptual, constitute the major substance of Morteira's preaching. But among the subjects of contemporary significance treated by Morteira, none appears in passages more probing and powerful than the subject of the New Christians — those who were returning to the Jewish community and, even more, those who failed to return.

Virtually every family in the Portuguese community of Amsterdam during the first decades of its existence had relatives, associates, and friends living in what were frequently called "the lands of idolatry": Portugal, Spain, or cities such as Bordeaux and Antwerp. Why did they not leave their Christian environment to join their people? Does their refusal to come to a Jewish community like Amsterdam cast doubt upon the wisdom of the decision made by those who had uprooted themselves, broken their ties with the Iberian peninsula, left their native land and their familiar surroundings behind? These were questions that apparently troubled many in the congregation, and Morteira provided a whole range of explanations on various occasions.[61]

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claim that the worship in the Temple did not have the proper level of cleanliness. For it is not right to look at the matters pertaining to that Temple with eyes of flesh, but rather with eyes of the intellect. וכבר בדרושינו בפרשת ויקרא חתמנו פיהם של הטוענים על עבודת הבית כי לא היתה על הנקיות הראוי כי לא יאות לראות עניני הבית ההוא בעיני בשר אלא בעיני השכל.

59 The sermon on *Va-Ethanan* in the 1645 *Giv'at Sha'ul* is entirely devoted to a refutation of the claim — read by the author "in one of their books"— that Christianity introduced four great improvements over Judaism: the ideals of poverty, chastity, love of one's enemy, and the active pursuit of martyrdom. I hope to publish a full contextual analysis of this fascinating sermon elsewhere. That sermon does indeed raise the common charge of rampant licentiousness among the purportedly celibate Catholic priests.

60 E.g. GS 1645, p. 67a, 1912, p. 125: אות׳ מבני עמנו אשר נדמעו מן הגוים ונשכחה מהם הקבלה, אנה הוא ואף כי הכריחו קצת מן העמים לקצת מבני ישראל. GS 1645, p. 92a–b, 1912, p. 308: המשפט האלקי ליסרם; לעזוב את דתם הנה אותם שהיו מבני ישראל באמת כל היום וכל הלילה תמיד לא יחשו מלחזור לירושתם אשר ירשו מאבותיהם ולא יחושו לסכנות ופגעים שיקרו, ואותם אשר נשכחו הלא הן מן הנדמע בהם, כי השי״ת היודע כל נסתרות מצרף כבור סיגנו ומסיר כל בדילנו למען נשוב כבראשונה.

61 On the actual reasons why many New Christians did not leave the Iberian peninsula when they had the opportunity to do so, see Yerushalmi, *From Spanish Court to Italian Ghetto*, 29–31. It is inter-

One explanation suggested is that those who choose to remain in the "lands of idolatry" were not of pure Jewish descent to begin with. In a sermon delivered in 1622 or 1623 and published in *Giv'at Sha'ul*, Morteira refers to this idea in passing: "Those who are truly of the children of Israel never cease, day or night, from returning to the estate that they inherited from their ancestors, paying no heed to the dangers or the tribulations that might occur to them. And those who have been forgotten, why they are from that element mixed into [the Jewish people]. For God, who knows all hidden things, purifies our dross and removes our slag (cf. Isa 1:25), so that we might return to our original condition."[62] This passage serves two functions. First is to validate the decisions by those who sat before the preacher. Their willingness to take risks and make sacrifices proves not only their Jewish loyalty but also their genuine descent from biblical Israel. Second is to minimize the significance of those who remained behind by suggesting that they were never fully Jewish.[63] The "Marrano" experience ensuing from the forced conversions of 1497 is thereby presented as one of God's providential techniques to separate the true Jews from the bad seed among the Jewish people.

In a later sermon for the Sabbath of Repentance, delivered in 1645, Morteira is clearer about the historical setting of this foreign element that was mixed in with the true Israel. Discussing the agents of destruction withstood by the Jewish people, Morteira mentions the large number of proselytes from Edom who joined the Jews as a result of the forced conversions in the time of John Hyrcanus.[64] These endangered the people of Israel; it was to them that the sages referred in comparing proselytes to a boil on the skin (*b. Yebam.* 47b). Yet their negative influence was not decisive.

> For God separated out all those who became assimilated among them during the Second Temple period, in that they were the Jews who accepted the new religion [Christianity] and were removed from the rest. Therefore, this is one of the reasons why this nation is called Edom, as R. Isaac Abravanel explained on chapter 34 of Isaiah. And those who were assimilated

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esting to compare the modern historian's assessment of the factors with those presented by the contemporary preacher.

62 GS 1645, p. 92a–b, 1912, p. 308; Hebrew text above, n. 60. Morteira's reference to "dangers and tribulations" is confirmed by contemporary sources cited by Yerushalmi, 29 n. 42.

63 Compare the earlier claim, attributed to Crescas, that those who converted to Christianity in 1391 rather than dying as martyrs demonstrated that they were not truly "of the seed of Abraham"; Saperstein, "*Your Voice Like a Ram's Horn*," 261, and the reaction to this on 263–64.

64 MS 3:162r, *Ve-Zot ha-Berakhah*, Deut 33:3, Shabbat Teshuvah, 1645: במה שנתערבו בהם גרים רבים בארצותם כמו שספר יוסף בן גוריון כאשר נצח הורקנוס [מל]ך אדום הכריחם למול.

On the forced circumcisions, see David Flusser, ed., *Sefer Yosippon* (2 vols.; Jerusalem: Mosad Bialik, 1978) 1:116.

among the Gentiles in their exile became estranged from their brothers and alien to their mothers' children, so that they were set aside for evil from all the tribes of Israel (cf. Deut 29:20).[65]

Juxtaposing this with the previous passage, we get a clear picture of Morteira's claim. The Edomites were victims of a forced conversion to Judaism. As this kind of compulsion never works, the weakness of their Jewish loyalties was no surprise; therefore, they and their descendants were susceptible to the heretical teachings of Jesus and his followers that eventually became the Christian religion. But not all the former Edomites left the Jewish people in antiquity. Once again there was a forced conversion, this time to Christianity. The descendants of the Edomites are those who have tried to assimilate among the Gentiles. There is, of course, no way of proving their lineage, except by their behavior. We see here a kind of genetic determinism not dissimilar to that used by many Christians to attack the conversos.[66]

Material considerations were a second reason suggested by the preacher for the unwillingness to leave their Iberian homes. Portuguese Christians who suspected they might be investigated by the Inquisition were not permitted to liquidate their assets and take their money out of the country. For most of them, the decision to return to Judaism entailed a considerable financial loss.[67] Morteira noted more than once that this was a powerful, though unacceptable, inducement to remain. In a sermon delivered in early 1621, he argues that the sons of

65 MS 3:162r, *Ve-Zot ha-Berakhah*, Deut 33:3, Shabbat Teshuvah, 1645:
והם היו למספחת לזרע ישראל כענין הגרים אשר הם במאז"ל [במאמרם זכרונם לברכה] כספחת לישראל והן מכמה מישראל אשר בגלות נדמעו בין הגוים ונאבדו בהם. אולם גם המשחית ה[?]צי הזה לא יכל להם להאבידם כי כל אותם שנדמעו בהם בזמן בית שני הבדילם ה' מהם במה שהם היו היהודים אשר קבלו הדת החדשה ונפרדו מהם ועל כן בין הסיבות אשר נקראת אומה זו בשם אדום הנה זו א' מהנה כמו שביאר מהי"א [מורנו הרב יצחק אברבנל] ז"ל בסי' לד דישעיהו. ואותם אשר נדמעו בין הגוין בגלותם הנה זרים היו לאחיהם ונכרים לבני אמם באופן שיבדלו לרעה מכל שבטי ישראל. ובזה נתקיים „הן עם לבדד ישכון" בארצם „ובגויים לא יתחשב" חוצה לה, עד כי יכולים לומר כי הם אינם משועבדים למשחית הזה.
For Abravanel's explanation of the continuity between Edom and Rome, see B. Netanyahu, *Don Isaac Abravanel* (Philadelphia: JPS, 1968) 233–34.

66 See B. Netanyahu, *The Origins of the Inquisition in Fifteenth Century Spain* (New York: Random House, 1995) index, s.v. "racism" (terminology which is often quite problematic in context); Glaser, "Invitation to Intolerance," 364–67. As H.P. Salomon has shown, Fernão Alvares Melo (1569–1632) also maintained that exiled New Christians who remained faithful to Catholicism in Flanders or France revealed by their choice both their materialistic values and that they had an admixture of non-Jewish blood in their lineage. Salomon, *Portrait of a New Christian* (Paris: Fundação Calouste Gulbenkian, 1982) 179.

67 See Cecil Roth, "Immanuel Aboab's Proselytization of the Marranos," *JQR* n.s. 23 (1932–33) 130, 145; I.S. Révah, "La religion d'Uriel da Costa, Marrane de Porto," *RHR* 161 (1962) 49. According to a decree of March 13, 1610, the property of any New Christian who left Portugal without royal

Jacob sinned by not remaining in the land of Canaan when they went there to bury their father. There was no need for them to return to Egypt; they did so because of the comfortable circumstances in which they found themselves.[68] The moral is then applied to the present.

> We have seen this very same phenomenon, because of our sins, in those who, thinking of their need for sustenance, assimilate in a land that is not theirs and worship idols. They make vows to God that as soon as they accumulate a little wealth, they will leave that land and go to serve the true God. But when wealth comes to them, they forget their vows, and their good fortune makes them rebellious. So it has always been.[69]

The following year, in his sermon on the same scriptural lesson, he made a similar point, arguing that Jews living in exile should not purchase real property — houses or vineyards — for these "keep Jews from going with their brothers and promote assimilation with the Gentiles."[70]

In the mid-1630s, Morteira returned to this theme in a different biblical context. The sermon, on the lesson *Toledot*, is entitled "the Sins of Edom." Drawing on the familiar typology of Esau-Edom-Christian, the preacher discusses the sins attributed to Esau in the midrashic literature. Their significance is presented typologically, applied not to the Christians themselves but to the "New Christians," Jews who sell their birthright by remaining in a Christian land. The rabbis recount the "sins of Edom,"

> to teach all those who are similar to Esau, those who, because of physical sustenance and bodily pleasures spurn the Eternal and His service, bury their offspring among the Gentiles, destroy their souls and lose their por-

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authorization would be forfeited to the Crown, a premium being deducted from it to pay informants (H.P. Salomon and I. S. D. Sassoon, Introduction to Uriel da Costa, *Examination of Pharisaic Traditions* [Leiden: Brill, 1993] 7).

68 A similar idea can be found in Solomon Levi's *Divrei Shelomoh* (Venice, 1596) 173a–b.

69 MS 3:108r, *Shemot*, Exod 1:6, 1621:
העניין הזה בעצמו בעונותינו ראינו בעולם הזה באותם אשר לפי חסרון מזונותיהם יתערבו בארץ אשר לא להם ויעבדו את האלילים וידרו נדרים לה׳ כי כאשר תמצא ידם עושר מה יעזבו הארץ ההיא וילכו לעבוד את ה׳, הנה כאשר יבוא להם כן ישכחו את אשר נדרו ויבעטו בכל הטוב אשר מצאו. כן היה תמיד.

70 Marc Saperstein, *Jewish Preaching 1200–1800* (New Haven: Yale Univ. Press, 1992) 278 (paper-bound edition; the freer translation in the original edition reveals my failure to appreciate in this sentence an allusion to the New Christians who remain in Portugal, an allusion that became clear only because of the manuscript sermons). Cf. MS 3:307r, *Ha'azinu*, Deut 32:21, 1641: "Because of their wealth they exchange their God, and they remain in the lands of their enemies serving a different God out of concern for their wealth, their fields, and their houses": ... ובשביל ממונם ימירו אלהים וישארו בארצות אויביהם עובדים לאל אחר כדי לחוס על ממונם קרקעותיהם ובתיהם.

> tion in the resurrection of the dead. They do not trust that God will provide them with food without transgressing His word. Yet this is all done to no avail, for they spurn their birthright after experiencing wealth and tranquility, and they are embarrassed over it, although it is the highest birthright of all. In this regard they are similar to Esau, and their inheritance will be like his, as the Bible says, *I hate Esau* (Malachi 1:3).[71]

Contemporary evidence confirms the claim that New Christians did indeed often delay their decision to leave Portugal in order to amass and transfer sufficient capital to their new destination.[72] Morteira was not the only religious leader to extrapolate from this practice and conclude that those who did not come revealed an excessive preoccupation with material concerns.[73] But few integrated this theme as consistently into the texture of biblical sources. The message to his listeners was clear: if they had made financial sacrifices to leave Portugal, they had the proper hierarchy of values, abandoning temporal wealth for the worship of the true God.[74]

Another explanation of the unwillingness to leave the Iberian peninsula was fear that any expression of commitment to Judaism would get them into serious trouble with the authorities. Morteira touches upon this in a sermon from 1630 on the lesson *Mi-Qets*. The passage begins with a verse from Ezekiel (5:7): *Because you have outdone* (hamonkhem) *the nations that are round about you — you have not obeyed My laws or followed My rules, nor have you observed the rules of the nations round about you.* His application of this verse is drawn from one of the great figures of the Sephardic tradition:

71 MS 5:32r, *Toledot*, Gen 25:32, mid–1630s:
ולא לחנם נכתבו המעשים האלה אלא ללמד מהם כל הדומים לעשו אשר בשביל האכילה וההנאה הגופנית בוזים את ה׳ ועבודתו מטמעים זרעם בין הגוים מאבדים נפשם אובדים חלקם בתחיית המתים. אינם בוטחים בה׳ שיזמין להם מזונותיהם מבלעדי שיעברו את דברו. ועל הבל נעשה להם הדבר עצמי כי בוזים את הבכורה אחרי היות להם עושר ושלוה ומתביישים ממנה והיא המעלה אשר אין למעלה ממנה. ובזה הם דומים לעשו ויירשו עמו, כמו שכתוב, ,,ואת עשו שנאתי.״

72 Roth, "Immanuel Aboab's Proselytization," 131, 147–48; Yerushalmi, *From Spanish Court to Italian Ghetto*, 30.

73 Cf. Abraham Israel Pereyra criticizing in 1671 those who remain because of "financial interest, or fearfulness for losing our wealth" (cited in Kaplan, *From Christianity to Judaism*, 337), and, from an earlier period, Isaac Karo, cited in B. Netanyahu, *The Marranos of Spain* (New York: American Academy for Jewish Research, 1966) 160. Ironically, Portuguese preachers at the *autos-da-fé* agreed that the New Christians in Portugal were preoccupied with a desire for wealth, but they argued that this thwarted their acceptance of Christianity. See Glaser, "Invitation to Intolerance," 362–63.

74 Cf. also Morteira's vehement condemnation in his manuscript "Responses to the Questions of a Priest from Rouen" (Ets Haim MS EN48 D38, fol. 105v), question 21, referring to New Christians as "truly worshippers of gold (adorades del oro)" who try to deceive God "for the sole purpose of accumulating wealth" (por puro interes de acomular hazienda). H. P. Salomon, "Haham Saul Levi Morteira en de Portugese Nieuw-Christenen," StRos 10 (1976) 137 n. 50.

It is as Rabbi Isaac Abravanel interpreted: it speaks about the conversos, who have become like the masses (*hamon*) of the Gentiles. They do not observe God's Law *because of fear*, and they do not observe the idolatrous law because they do not believe in it. Their portion is worse than that of the original idolaters, for they merely remained the same as believers in their idols. But those who believe in God and know Him: their sin is too great to bear (cf. Gen 4:13).

About them, God said that he would do something He had never done, the like of which He would never do again (cf. Ezek 5:9). That is the judgment of the Inquisition, something unprecedented, and never to be replicated, as the experts know. What will result from it? *Assuredly fathers shall devour their children* (Ezek 5:10), meaning not the devouring of food in hunger but as in the verse, *They have devoured Jacob* (Ps 79:7), referring to destruction. Thus the fathers, in order to appear like the others before the Gentiles, will destroy their children by making them priests and nuns, cutting off their line of descent, destroying and annihilating them. *And children will devour and destroy their parents* (ibid.), by informing upon them before the judges, as has occurred in many cases, so that the fire devoured them. And *because of this fear,* they will be dispersed in every direction. That is why the prophet concluded, *I will scatter all your survivors in every direction* (ibid.).[75]

Morteira follows Abravanel in the interpretation of Ezek 5:7 as applying to the New Christians, caught between two worlds, unwilling to observe Judaism because of their fear, yet incapable of sincere observance of Christian practices in which they do not really believe. But he finds his own way with Ezek 5:10, which Abravanel interpreted literally, applying it to the conditions of starvation during the Roman siege of Jerusalem. His metaphoric interpretation of that verse removes it from the distant historical past and relates it to the desolate experience known by many in the congregation: parents trying to prove their *bona fides* as Christians by pressuring their children to become priests and nuns, and children

75 MS 2:153r, *Mi-Qets*, Gen 41:6, 1630, emphasis added:
„לכן כה אמר ה׳ אלקים יען המנכם מן הגוים אשר סביבותיכם בחוקותי לא הלכתם ומשפטי לא עשיתם וכמשפטי הגוים אשר סביבותיכם לא עשיתם וכו׳" (יח׳ ה א), והוא כמה שפירש מהרי״א ז״ל שזה ידבר על האנוסים אשר נעשו כהמון הגוים ואינם שומרים תורת ה׳ מפני הפחד ואינם שומרים תורת האליל כי לא יאמינו בו וזה חלקם רע מן הראשונים בע״ז הואיל וישארו שם בהיותם מאמינים באליליהם, אבל המאמינים בה׳ ויודעים אותו גדול עונם מנשוא. על אלו אמר ה׳ שיעשה עמה׳ ה׳ מה שלא עשה ולא יעשה כמוהו, והוא משפט החקירה אשר כמוה לא היה ולא יהיה ליודעים בעני׳. ומה הוא שימשך ממנה? „לכן אבות יאכלו בנים״ (יח׳ ה יֹ) כתורף לא אכילת רעב אלא כמו „כי אכל את יעקב״ (תה׳ עט ז), שהוא אכילת כליון, והוא כי האבות כדי להתראות כהם בפני הגוים ישמידו את בניהם בתת אותם כומרים וכומרו׳ ויכריתו זרעם וישמידם ויכלום. ובנים יאכלו וישמידו אבותם בהלשין אותם לפני הדיינים כאשר ארע כמה מעשים ויאכלם אש. ובשביל האימה הזאת הם מחפזרים לכל רוח, ועל זה סיים „וזריתי אל כל שאריתך לכל רוח״ (שם).

informing on their parents out of fear that the Inquisition might otherwise prosecute them.[76] It is a devastating picture of New Christian life that could only reaffirm the decision made by those in the audience. We shall return to the Inquisition in discussing how Morteira sees the future destiny of the New Christians.

The explanations invoking financial interest and fear imply that the New Christians in Portugal are insincere in their profession of Christianity. On occasion, however, Morteira recognizes that some of those who remain do so from a genuine desire to live as Portuguese Christians. On the whole, he believes that the New Christian community managed to remain endogamous, as he notes in a sermon from early 1624:

> How much God warned us against intermarriage, for this causes a blurring of the identity of peoples. Even today we have seen God's gracious love in this matter. What has enabled the last remnant of *the exile of Jerusalem which is in Sefarad* (Obadiah 20) to preserve its identity is their refusal to intermarry with the Gentiles of that land. This has preserved their lineage and their identity, so that they are not lost to the community of the Eternal.[77]

However, in the very same sermon, Morteira concedes that this is not always the case. There are those who have married and born children in the Christian faith. Such an individual may now claim that "he actually loves the qualities of the people where he has been exiled and his Gentile wife, or the new religion and his children who are devoted to idolatry."[78] Here is something more than economic self-interest, something approaching full assimilation into the Portuguese Christian ethos, accompanied by genuine commitment to the new faith. We shall see what Morteira claims is in store for these individuals.

76 On the difficulties encountered by New Christians trying to enter the Church because of "purity of blood" legislation, see Joseph Kaplan, "R. Sha'ul Levi Morteira ve-Hibburo 'Ta'anot ve-Hasagot Neged ha-Dat ha-Notsrit," *Mehqarim al Toledot Yahadut Holand* 1 (1975) 22–23; English version: "Rabbi Saul Levi Morteira's Treatise 'Arguments Against the Christian Religion,'" *Imm* 11 (1980) 103–104. Morteira wrote a responsum about a Jew asked to use his contacts to intercede with the Pope on behalf of Portuguese New Christians who are "requesting permission from the Pope to allow their sons to become priests and their daughters nuns" (ibid., Hebrew version, 24, English, 106). He may well have been thinking of this when he wrote this passage for his sermon.

77 MS 3:345v, *Mishpatim*, Exod 21:6, 1624:
וכמה הזהיר השי"ת החתון הזה עמהם כי זה המסבב הבלבול בין העמים. ועוד היום ראינו כי בחסד ה' הדבר הזה היא שעמדה לשארית פליטת גלות ירושלים אשר בספרד לבל יאבדו זכרו רוב הרחקתם מהתחתן את גויי הארץ כי הדבר שמר יחוסיהם וזכרם ולא נאבדו מקהל ה'.
On endogamy among the Portuguese New Christians, see Cecil Roth, "The Religion of the Marranos," *JQR*, n.s. 12 (1931) 30–31; Glaser, "Invitation to Intolerance," 366; Joseph Kaplan, "Maslulei ha-Hitbolelut u-Temi'ah be-qerev Anusei Sefarad ba-Me'ah ha-Yod-Zayin," in Joseph Kaplan and Menahem Stern, eds., *Hitbolelut u-Temi'ah* (Jerusalem: Merkaz Zalman Shazar, 1989) 167–68.

78 Ibid. 346r: יאמר שאוהב עניני העם אשר הגלה שם ואשתו הנכרית ממש או הדת ובניו האדוקים בע"ז.

Particularly striking are those occasions when Morteira refers to various rationales used by New Christians to justify their clinging to the status quo. One such passage comes in a sermon on the lesson *Mattot* delivered very early in Morteira's preaching career. Discussing the various types of oaths in what might have seemed at first to be a rather dry halakhic sermon, Morteira turns to verses from the twentieth chapter of Ezekiel, a passage that had a long history of application to the New Christians.[79] After raising several problems in the verses, he introduces his own interpretation as follows:

> The prophet's intention was to rebuke Israel because of the evil of a false opinion that is prevalent among us and some of the descendants of our people. This is that God demands what is in the heart and is concerned only about inwardness, caring not about external actions performed in contradiction to the inner truth. For "the Merciful One desires the heart."[80]
>
> Therefore the prophet said, *What has come upon your mind,* and upon your thought and your intellect, meaning *in opposition to* your mind and the truth that you possess, *it shall never, never be, when you say* alone, without doing it,[81] *"We will be like the nations,* in order to live among them, *like the families of the lands"* (Ezek 23:32). This means, "Let us become like the family in whose midst we live, following their religion and their way of thinking, for since it is all nonsense to us and our only intention is to live among them, we may act in accordance with the place and the family in whose midst we find ourselves." You also say, "What difference does it make to God that we have become like them, *worshiping wood and stone* (ibid.), for this is nonsense, and we recognize and say in their presence that they are wood and stone. What is the problem with being like them in this matter?"[82]

79 See Abravanel's commentary on this passage (*Nevi'im Aharonim*, p. 519b–520a) and the discussion by B. Netanyahu, *The Marranos of Spain*, 181–90. Cf. also Yerushalmi, *From Spanish Court to Italian Ghetto*, 377.

80 *B. Sanh.* 106b.

81 This is a possible but not certain reading of the words אתם אומרים לבד לא עושים, which are not entirely clear in context. The implication would be that they are not successful in carrying out their plan.

82 MS 3:66v, *Mattot*, Num 30:3, early 1620s:
והנה כונת הנביא היא להוכיח את ישראל על רעה בדעת כוזבת נתפרסמה בינינו ובין קצת מבני עמנו והוא כי דורש לבבות ה' ואין לו אלא הפנימיות ולא אכפת לו הפעולות החיצוניות הנעשות נגד האמת אשר בלב כי „רחמנא לבא בעי." כי לכן אמר הנביא „והעולה על רוחכם" ר"ל מה שעולה על רוחכם ועל מחשבתכם ועל שכלכם ר"ל נגד רוחכם והאמת אשר אתכם, „היו לא תהיה אשר אתם אומרים" לבד לא עושים „נהיה כגוים" כדי לחיות ביניהם „כמשפחות הארצות" ר"ל נהיה כמשפחה אשר אנחנו בתוכה כפי דתם וסברתם כי הואיל והכל אצלנו הבל ואין דעתנו אלא לחיות ביניהם נהיה כפי המקום והמשפחה אשר אנחנו בתוכם, ולכן אומרים מה אכפת ליה לקב"ה זה שנהיה כהם לשרת עץ ואבן במעשה חיצוני וסכל בזה ואנחנו מכירים ואומרים בפניהם שהם עץ ואבן מה בזה להיות כהם בדבר הזה?

Nor was this the only time Morteira emphasized this aspect of New Christian ideology from the pulpit. In the sermon on *Mattot*, he continued to relate this appeal to inwardness to a passage from the lesson *Nitsavim*; a few years later he referred back to this interpretation, recapitulating its application to the New Christians:

> We have interpreted this matter of *the moist and dry alike* (Deut 29:18) in a different context, as pertaining to those who say that "The Merciful One desires the heart," and He is not strict about actions, and therefore it is permissible to worship idols and to act as a Gentile together with those who worship them, while worshiping God in one's heart alone, for *the Eternal examines the hearts* (Proverbs 17:3). That is why [Moses] said, *Perchance there is among you some man or woman, or some clan or tribe, whose heart is even now turning away from the Eternal our God to go and worship the gods of those nations [. . .], fancying himself immune, thinking "I shall be safe,"* and these curses do not pertain to me, *for I follow the dominance of my heart* (Deut 29:17–18), meaning, so long as I follow the dictates of my heart, believing in God, even though in my actions I follow a different path. He does this *in order to share the moist and dry alike* (Deut 29:18). He labeled the true faith in God *the moist*, for it satisfies and quenches the thirst of those who follow it. *The dry* is a label for idolatry, which causes thirst and does not suffice to quench the thirst of those who pursue it. He does this in order to hold on to both of them, to share and cleave to the moist and the dry, continuing to make one adhere to the other. *The Eternal will never forgive him; rather will God's anger rage. . . .* (Deut 29:19).[83]

Morteira's exegetical twist here applies to the Hebrew conjunction *ki* in Deut 29:18. It is usually understood to have the force of "although": "I shall be safe although I follow the dominance of my heart." By using its more common meaning, "because," the preacher is able to make the following phrase an expression

83 MS 2:46r, *Be-Midbar*, Num 1:16, mid 1620s:
והנה בענין אחד פירשנו ענין „הרוה על הצמאה" כי ידבר הכתוב על האומרים כי „רחמנא ליבא בעי" ולא יקפיד על המעשים ולכן מותר לעבוד אלילים להתנכר עם עובדיהם ולעבוד את ה' בלבו בלבד כי „בוחן לבות ה'." ולכן אמר „פן יש בכם איש או אשה משפחה או שבט אשר לבבו פונה היום מעם ה' אלקינו ללכת לעבוד את אלקי הגוים ההם והתברך בלבבו לאמר שלום יהיה לי" ולא דברו עלי הקללות ההמה „כי בשרירות לבי אלך" ר"ל כאשר ברצון לבי אלך באמונת ה' אף כי במעשי אלך בדרך אחרת. וזה יעשה „למען ספות הרוה על הצמאה" ויכנה אמונת ה' האמיתית לרוה כי משבעת ומרוה את ההולכים בה. והצמאה היא כינוי אל ע"ז המצמיא ואינה מספקת להוציא הצמא מלב רודפיה. וזה יעשה לאחוז בזה ובזה ולספות ולדבק ברוה ובצמאה ולהוסיף ולדבק זו בזו. „לא ירבה ה' סלוח לאיש ההה כי אז יעשן אף ה'" וכו'.
Cf. MS 2:66v, *Mattot*, Num 30:3, early 1620s, the continuation of the passage cited in n. 82, above. I have quoted the recapitulation from the later sermon because some aspects of Morteira's homiletical exegesis are clearer here than in the original.

of the ideology of inwardness, the reason why the sinner mistakenly believes that all will be well.[84]

Sermons by a preacher in Amsterdam cannot be assumed to constitute reliable evidence for the thinking of New Christians in Portugal. The above passage certainly should not be used to establish that New Christians knew and cited the Aramaic phrase from the Talmud, for this may be the preacher's own addition. Yet the argument attributed to them – that God does not care about external actions so long as the heart is pure – seems to be a genuine aspect of "Marrano" ideology. There is a certain plausibility about it; it is the kind of rationalization that people in that situation desiring to justify their behavior would be likely to generate. The question why a purely spiritual God should care about external acts was a powerful challenge for all streams of medieval Jewish thought,[85] and the leap from the insistence that God requires *also* the heart to the claim that God requires *only* the heart was occasionally made by Jews in less dangerous circumstances than the men and women who were threatened by the Inquisition.[86]

But in addition to this argument from plausibility, there is also external corroboration of Morteira's statement of Marrano doctrine.[87] Immanuel Aboab's *Nomologia*, published at Amsterdam in 1629, contains both a statement and a refutation of the claim, attributed to the Portuguese Marranos, that God had given permission to worship false gods in case of necessity so long as the heart remained committed to the true God. The same idea is cited in a responsum of Samuel Aboab: They believe that "the prohibition of idolatry applies to the 'service of the heart' when external actions are consistent with it. However, so

84 Nahmanides suggested this meaning of *ki* as an alternative interpretation, although his reading of the verse is different: the sinner believes he will be safe because, following the dominance of his heart, he never accepts the oath to begin with. Abravanel, with the same meaning of *ki*, also has a different reading, relating to philosophically driven heresy: "I shall be safe because I act in accordance with my mind, my intellect, and God has given the intellect to man that he might follow its light." A similar view is cited by Abraham Saba ("there are those who say"), who is more specific than Abravanel: it is the view of those who believe that the essence of the commandments is to know their inner content, not actually to perform them – yet Saba apparently links this with radical philosophy, not with converso ideology (*Tseror ha-Mor*, Deuteronomy, 26a).

85 For a summary see Joseph Dan, *Sifrut ha-Musar ve-ha-Derush* (Jerusalem: Keter, 1975) 47–68.

86 For example, the view cited by Abraham Saba, above, n. 84. This issue was also a matter of internal Christian debate over the position called "Nicodemism": that it was permissible to dissemble acceptance of a persecuting majority church in order to avoid persecution and save life, so long as the heart remains committed to the truth faith. Calvin, responding to this view, insisted that it was not enough to acknowledge God in the heart; the believer must do so publicly, in true worship and "exterior profession." See Brad S. Gregory, *Salvation at Stake: Christian Martyrdom in Early Modern Europe* (Cambridge: Harvard Univ. Press, 1999) 155–56, and cf. 173 bottom.

87 Note that Morteira himself refers to this rationale in a totally different context: his "Responses to the Questions of a Priest from Rouen": "y piensan estos que teniendo el coraçon bueno con el Señor, tienen satisfecho a su obligacion" (Salomon, "Haham Saul Levi Morteira," 137, n. 50).

long as there is no inward sincerity, and the deeds [of idolatry] are performed out of fear of the Gentiles, there is no guilt in God's sight."[88] Morteira's sermon, which pre-dates both of these texts, would therefore appear to articulate a genuine aspect of "the religion of the Marranos."

In a different sermon on *Mattot*, delivered about a decade after the one cited, Morteira returned to the New Christians who remained in Portugal. Here too, he claims to reveal something of their thinking:

> Neither the wicked of Israel nor the other peoples should think that the ugly vows and the sordid oaths that the Israelites sought to fulfill while living on the land, and that were frustrated by God in His zeal, may be put into effect during the period of exile, for having left the land [of Israel], we are no longer subject to the original covenant but are like a widow, God forbid! . . . Those cursed vows that were made to Baal while they were still in their land, they think that they may fulfill them in their exile, and that although God frustrated them by meting out severe punishment in their land, He will not be strict about them now that the people are outside the land. . . . God is always our King, watching over us.[89]

Although there is less external corroborating evidence for this view than for the previous one, this too is a plausible expression of "Marrano" rationalization.

88 Immanuel Aboab, *Nomologia* (Amsterdam, 1629) pt. 2, chap. 18, 213–17; Samuel Aboab, *Divrei Shemu'el* (Venice, 1720) no. 45. Cf. Roth, "The Religion of the Marranos," 5, and "Immanuel Aboab's Proselytization," 130–44; Yerushalmi, *From Spanish Court to Italian Ghetto*, 38–39. In both texts, the belief is said to be supported by a passage from the apocryphal "Letter of Baruch," in which Jeremiah says to the Babylonian exiles, "When you see a multitude before you and behind bowing down, you shall say in your hearts: You alone are to be praised, O Lord." Cf. "The Epistle of Jeremy," vv. 5–6, in R. H. Charles, *The Apocrypha and Pseudepigrapha of the Old Testament* (2 vols.; Oxford: Clarendon Press, 1913) 1:606. Morteira's sermon does not have this reference, which may indicate an independent source of information. In the Portuguese *auto-da-fé* sermons, Christian preachers attacked the idea that one can be a Jew in the heart and a Christian in the mouth (Glaser, "Invitation to Intolerance," 357–58). For an early expression of this ideology reported in a rabbinic source, see the responsa of Simon ben Tsemah Duran (*Teshuvot Tashbets*, pt. 3, no. 47: אם ישאלך האנוס אם פסול אם כשר, אם יאמר לו פסול אינו משגיח עליך עוד אלא שאומר לך אתה הוא פסול ואני כשר, לפני שלבו מסור לשמים.

And compare the sources (including Inquisitional documents) and discussion in Gitlitz, *Secrecy and Deceit*, 41, 83, 124 n. 2, 335; Bodian, *Hebrew of the Portuguese Nation*, 100–1 and 145.

89 MS 3:154r, *Mattot*, Num 30:11, early 1630s: לא יחשבו לא רשעי ישראל ולא העמים כי הנדרים המכוערים אשר בקשו בני ישראל לקיום בזמן היותם בארצם והשבועות המגונות אשר נשבעו אז ה' בקנאתו הפרם יהיו בדעמדתם בימי הגלות כי כבר יצאנו מן הארץ ולאו אנחנו תחת הברית הראשון נהיה כאלמנה חלילה. . . . הנה כי הנדרים הארורים אשר נדרו לבעל בעודם בארצם היו חושבים כי אחרי גלותם יקיימום ואע"פ שהפר ה' אותם בתת להם עתשים גדולים בארצם לא יקפיד עליהם בהיותם חוצה לארץ . . . ותמיד ה' מלכנו ומשגיח עלינו.

Just as the appeal to the supremacy of the inner religious life takes a principle with a strong foundation in internal Jewish thought and pushes it to a radical conclusion, so the claim that God is less strict about idolatry outside the land of Israel has a recognizable background. That the land of Israel has higher standards concerning ethical and religious behavior is indeed a doctrine with biblical roots; one of the most highly respected and influential medieval thinkers, Nahmanides, made it a focal point of his commentary.[90] There is also some evidence of heretical counter-currents among Jews who questioned whether the commandments as a whole were binding outside the land, arguing on biblical grounds in ways that — as we have seen Morteira report — were used by Christians to attack the viability of Diaspora Judaism.[91] Such a thesis might well have been useful to New Christians who could not observe the commandments, yet who continued to believe that they would be included in the messianic ingathering of the exiles, when the full array of commandments could once again be observed in the land.[92] It is therefore possible that the passage too draws from some genuine themes of "Marrano ideology," which may some day be corroborated by further evidence.

Morteira's refutation of this view is based on Jeremiah's message, addressed after the destruction of Jerusalem, to Judeans living in Egypt and worshipping alien gods there. This passage contains one of the few explicit defenses of idolatry attributed to Israelites in the Bible. It is an argument from history: things began to deteriorate in Judah and Jerusalem when we *stopped* offering sacrifices to the Queen of Heaven (Jer 44:17–18). Therefore, the Judeans reportedly say, "*We will do everything that we have vowed — to make offerings to the Queen of Heaven and to pour libations to her*" (Jer 44:17). Jeremiah replies, *You said, "we will fulfill the vows which we made, to burn incense to the Queen of Heaven and to pour libations to her." So fulfill your vows; perform your vows! But listen to the word of the Eternal . . .* (Jer 44:25–26). There follows a prophecy of punishment by God for all the Judeans dwelling on Egyptian soil. This is the precedent for Morteira's insistence that God's providence extends throughout the world, and that idolatry committed by Jews outside the land of Israel will be punished no less vehemently than the sins of their ancestors in the holy land.

Whatever the reasons why so many of the New Christians chose to remain in Portugal or in other lands where they had to live as Christians, Morteira shows little doubt about their ultimate fate. Try as they may, they cannot escape their Jewish identity. They remain Jews, and they will ultimately be punished as

90 See, e.g., Nahmanides, Commentary on Gen 1:1 and 19:5, Lev 18:25.

91 See above, n. 29.

92 For other Jewish references to the converso use of the claim that the obligation to perform the commandments applies only to the land of Israel, see the sources cited by Ravitzky, "'Hatzivu Lekha Tziyunim' le-Tziyon" (above, n. 29) 20–25.

Jews. This message is asserted on many occasions in some of the most powerful passages of Morteira's preaching, and in order to convey something of their impact, it is worth citing them at length. For example, in early 1624, speaking on the lesson *Mishpatim*, Morteira raised the question why the first biblical chapters devoted entirely to legal matters begin with the apparently minor case of the Hebrew slave. The answer, coming at the conclusion of the sermon, is that the passage should be read as a warning about issues of contemporary significance. Here is the rather impressive and apparently original interpretation:

> *If his master gives him a wife* (Exod 21:4) means, if his masters compel him to take another wife and a new religion, as occurred to many of our people because of our sins, and *she bears him sons or daughters* who are devoted to it, despite it all they [i.e., the masters] will not extinguish the love nor will they remove him from the Jewish people, for "even though he sins he remains a Jew."[93] *The wife and her children will belong to her master, and he will go forth alone* (Exod 21:4). Since the wife belongs to an alien faith, they are not truly his children. *The scepter of the wicked surely will not rest over the portion allotted to the just* (Ps 125:3); *may God lead them away with the evildoers, and may peace be upon Israel* (Ps 125:5). He will go forth alone, and be counted with his people.
>
> But *if the slave should say, "I love my master and my wife and my children, I will not go forth to freedom"* (Exod 21:5), meaning, if this slave should be one of those Jews who sin by defiling their bodies,[94] saying that he actually loves the qualities of the people where he has been exiled, and his Gentile wife, or the new religion and his children who are devoted to idolatry, and will therefore not go forth to freedom, *his master*, namely, his original Master *will bring him to judgment* (Exod 21:6), removing him from the exile to pass sentence against him. . . .
>
> He will remove him from his home, *and bring him before the door or the doorpost* (Exod 21:6), meaning close to the entrance or the door to the land of Israel, as in "you shall see it but you shall not eat of it,"[95] and there *he shall pierce his ear with a bore,* an implement of iron, wreaking vengeance against them. *He shall serve him forever* (Exod 21:6), cleaving to his master

93 *B.Sanh.* 44a. On the emergence of this statement as basis for the principle that even the apostate Jew remains a Jew, see Jacob Katz, "Af al pi she-Hata Yisrael Hu," in *Halakhah ve-Qabbalah* (Jerusalem: Magnes Press, 1984) 255–69; *Exclusiveness and Tolerance* (New York: Schocken, 1962) 70–73.

94 See *b.Roš Haš.* 17a, where the phrase refers to the category of those *not* condemned to eternal punishment. Cf. Altmann, "Eternality of Punishment," 44 (Morteira's citation of R. Asher ben Yehiel). In the present passage, he seems to be using the phrase in a new way.

95 This appears to be a quotation, but I cannot identify it. It may be a slip of the pen, conflating Deut 34:4 and Gen 2:17.

and his accursed wife, as in the verse, *Go down and be laid to rest with the uncircumcised* (Ezek 32:19), for *Their worm will never die and their fire will never be extinguished* (Isa 66:24).

This is why the section begins with the law of the slave: . . . to teach that if they fail to carry out the covenant, *These are the judgments* (ha-mishpatim) *which He will place before them* (Exod 21:1).[96]

Morteira's typological approach to the biblical laws concerning the Hebrew slave enables him to take a passage of merely theoretical interest, with absolutely no relevance to the realities of Jewish life in the seventeenth century, and unpack a message that speaks directly to the concerns of many of the listeners.[97] The two

96 MS 3:346r, *Mishpatim*, Exod 21:6, 1624:

אם אדיניי יתי לי אשה" (שמ' כא ד) ר"ל אם יכריחהו אדוניו לקחת אשה אחרת ותורה חדשה כאשר קרה לכמה מבני עמנו בעוניותינו "וילדה לו בנים ובנות" אדוקים בה. עם כל זה לא יכבו את האהבה ולא יסירוהו מדירת מישראל כי אעפ"י שחטא ישראל הוא. "האשה וילדיה תהיה לאדוניה והוא יצא בגפו" כי האשה וילבנים בדייתה בת אל נכר אינם בניו ולא ינוח שבט הרשע על גורל הצדיקים (תה' קכה ג) ויוליכם ה' את פועלי האון שלום על ישראל (תה' קכה ה). "והוא יצא בגפו" רימנה עם עמו.

"ואם אמור יאמר העבד אהבתי את אדוני את אשתי ואת בני לא אצא חפשי" (שמ' כא ה) ר"ל אם יהיה העבד דיד בפישעי ישראל בגופי כי יאמר שאוהב עניני העם אשר הגלה שם ואשתו הנכרית ממש או הדת ובניו האדוקים בע"ז ולא יצא חפשי. "הגישו אדוניו" ר"ל אדוניו הראשון "אל האלהים" (שמ' כא ו) ויוציאהו מן הגלות ייעשה בי משפטים כמי שביאר בבירור יחזקאל. "והעידה על רוחכם היו לא תהיה אשר אתם אומרים נדיד בגוים וכי חי אני נאם ה' אלהים אם לא ביד חזקה וכו' [אמלוך עליכם] והוצאתי אתכם מן העמים וקבצתי אתכם מי הארצות וכו' והבאתי אתכם אל מדבר העמים ונשפטתי אתכם שם פנים אל פנים כאשר נשפטתי את אביתיכם במדבר ארץ מצרים וכו' והעברתי אתכם תחת השבט וכו' וברותי מכם המורדים והפושעים כי מארץ מגוריהם אוציא אותם ואל אדמת ישראל לא יבוא וכו'" (יח' כ לב-לח). זהו "והגישו אדוניו אל האלהים" כי ייציאני בביתי. "והגישו אל הדלת או אל המזוזה" ר"ל סמוך לפתח ולדלת ארץ ישראל כענין איתי תראה ימכני לא תאכל. ושם ירצע את אזנו במרצע בכלי ברזל לעשות בהם נקמה. "ועבדו לעולם" יידבק באדיניי ובאשתו הארורה כענין "רדה והשכבה את ערלים" (יח' לב יט). "כי תולעתם לא תמות ואשם לא תכבה" (ישׁ' סו כד).

ועל כן התחיל הכתוב מנישפט העבד לקיום הברית הנאמר לעיל כי לא ישתנה גוף העבד העבדי לאדון אחר יעיד כי אם לא ישמרו הברית. אלה משפטים אשר ישים לפניהם" (שמ' כא א). וכן קרה לנו בעבדות וכן יקרה לנו בגאולה שתהיה בביאת משיח צדקנו במהרה בימנו אמן.

1 omitted from the translation the citation of Ezek 32:33, which is used by the preacher with explication in other passages cited (above n. 82, below, n. 99).

97 This interpretation of the Hebrew slave passage was adumbrated by Morteira in his sermon on the second verse in *Mishpatim*, delivered perhaps in 1620 (MS 3:29v, Exod 21:2):

יכבו שהעבד הזה בהגיע זמן פדייני ולא ירצה לצאת כי יאמר "אהבתי את אדני ואת אשתי ואת בני לא אצא חפשי [. . .] וירצע אדיניו ועבדו לעולם" ר"ל האנשים אשר בזמן הגאולה וסוף השיש נמצאו נקשרין באהבה רבה עם אדיניהם ר"ל הגויים כי נתערבו בהם ולקחו נשים כנעניות ויאהבו את אשתם השפחה ואת בניהם בני זנינם דמד ולא יחכו לתשועת ה' לא עליהם יהיה גשם התשועה וידיו לעבד עולם לחרפות ולדראון עולם.

This sermon interprets the laws of the Hebrew slave as a hint about the exile and redemption of the Jewish people, with the six and seven years referring to messianic advent by the end of the sixth millennium. For another use by a Jewish writer of Exod 21:5 to express the unwillingness of a Portuguese New Christian to leave the Iberian peninsula, see Yerushalmi, *From Spanish Court to Italian Ghetto*, 30.

categories of slaves allude to two categories of New Christians. The slave that goes free in the seventh year represents those who have left the enslavement of enforced Christianity and who sit before him as free Jews in Amsterdam. The slave who chooses to remain with his master represents those who are still in Portugal, living as Christians. The ceremonial humiliation of the slave who renounces the opportunity for freedom prefigures the punishment ordained by God at the beginning of the messianic age. In addition to validating the choice made by the listeners, this interpretation explains the apparent anticlimax of technical legal material following the revelation at Sinai. The content is not insignificant at all, it deals with the crucial issue of Jewish identity. The word *mishpatim* in the first verse of the lesson is not just "laws"; it is the "judgments" that God wanted to be set out clearly for all Jews who seek to abandon their people.

We have already cited a passage from the early sermon on *Mattot* in which Morteira, drawing from Ezek 20:32, articulated the Marrano belief that God would overlook the outward display of Christian worship because of the inner purity of their hearts. After stating how the New Christians purportedly rationalized their behavior, the preacher continues with the message he derives from the Bible:

> To this, seeing that they violated the oath which they had sworn [at Sinai: see below], God replied with an oath of His own: *As I live, declares the Eternal God, I will reign over you with a strong hand* (Ezek 20:33). This means, I will see to it that you who want to be just like them will keep your oath against your will. You will confess to them in humiliation and disgrace what you did not want to affirm with honor and joy in other places. And this in three ways. *With a strong hand*, namely, through the power of a strong Inquisition investigating all the laws of the realm. *And with an outstretched arm*: an arm extended and stretched for a long, long time, a period of imprisonment and punishment lasting many years. *And with overflowing fury* (Ezek 20:33), which they pour out to each other, by calling each other to pay their debts to this punishment.[98] All of this is the result of the violation of their oath, for God wants them to fulfill it against their will, and not to their good.[99]

98 This phrase is not entirely clear to me; it may refer to the pressure imposed upon the New Christians by the Inquisition to turn against each other by denouncing their neighbors and, as we have seen above, even their own family members.

99 MS 3:66v, *Mattot*, Num 30:3, early 1620s:
לזה השיב השי״ת בראותו כי זה נגד השבועה אשר נשבעו בניהם הוסיף שבועה על שבועתו חי אני נאם ה׳ אלהים אם לא ביד חזקה וכו׳ ר״ל אני אעשה שאתם המבקשים להדמות בפניהם על כרחכם תשמרו שבועתכם ותודו בפניהם בחרפה וקלון את אשר לא רציתם להודות בכבוד ובשמחה המקומות אחרים. וזה בג׳ דברים: ביד חזקה ר״ל ביד החקירה החזקה על כל חוקי המלכות ובזרוע נטויה שנמשכת ונוטה זרועה לזמן גדול וארוך בזמן הסהר והענש לשנים רבות ובחמה שפוכה ששופכין זה לזה וקרא זה אל זה לפרוע חובותיהם אל הענש ההוא. וכל זה על עברם על השבועה כי רוצה ה׳ שיקיימוה על כרחם שלא בטובתם.

This passage shifts the punishment from an eschatological setting to the familiar experience of the present. The Inquisition is thus the instrument of God to punish those who seek to escape from their true identity.[100]

Morteira then turns to the theological basis for the punishment – the original oath of the covenant – moving to a homiletical explication with contemporary relevance of verses in the lesson *Nitsavim* that we have already encountered:

> For this hypocrisy and this concealing of their true faith in God is detested by Him. It is truly a violation of their oath, which our ancestors explicitly accepted, making it a futile oath. After the statement, *Cursed be the one who will not uphold the terms of this Torah and observe them – all the people shall say, Amen* (Deut 27:36). Now the words "uphold" and "observe" clearly entail the obligation of actual performance, to which they explicitly responded, "Amen." The divine Torah did not fail to speak prophetically about these people and inform them how they were violating the oath, and how God would become furious with them.[101]

There follows an interpretation of Deut 29:18–19, which we have cited above as it was recapitulated in a later sermon on the same Scriptural lesson. After presenting the rationale of those who think they will be safe despite their idolatry because they believe in God in their hearts, Morteira moves on to the sanction in the Deuteronomy passage:

> But *the Eternal will never forgive him [. . .] Every sanction . . . will come down upon him* (Deut 29:19), meaning that he casts his oath to the ground, yet despite it all, he will not accomplish what he wants, for *The Eternal will single him out from all the tribes of Israel for misfortune* (Deut 29:20), single

100 With this providental explanation of the Inquisition, cf. Abravanel, discussed in Netanyahu, *The Marranos of Spain*, 187–89; Martin Cohen, *Samuel Usque's Consolation for the Tribulations of Israel* (Philadelphia: JPS, 1994), Third Dialogue, chaps. 25, 30–31, pp. 198–99, 206–209; Salomon, *Portrait of a New Christian*, 167–69, 180. Salomon refers there to Morteira's use of this argument in his "Responses to the Questions of a Priest from Rouen," see Salomon, "Haham Saul Levi Morteira," 137 n. 51. Quoting Ezek 20:32–33 in Spanish, Morteira interprets: "estos son los que *con mano fuerte* del tormento, *y con braço tendido* de priçiones, *y con sana derramada de reçelos* de la vida, confiessan ser Judios" (vol. 106r–v). The sermon containing this interpretation precedes the polemical work by some ten years.

101 MS 3:66v, *Mattot*, Num 30:3, early 1620s:
כי החניפות הזה וכסוי אמונתם את ה' היא השנואה ממנו ית' והיא העברת השבועה באמת והיא שבועת ביטוי אשר קבלו עליהם אבותינו בשפתיהם שכן נאמר ארור אשר לא יקים את דברי התורה הזאת לעשות אותם ואמר כל העם אמן. הנה כי אמר יקים ולעשות שצריך לעשות בפועל, והם בפיהם ענו אמן. לא חסרה התורה האלהית מלהנבאות על האנשים כאלו ולהגיד להם איך עוברים את השבועה ואיך יקצוף ה' עליהם עד מאוד.

him out not for good but for evil, so that he too will admit being of the tribes of Israel, admitting against his will what he wanted to conceal.[102]

Again, it is the sufferings imposed by the Inquisition that foster an identification with the Jewish people that had not previously been overtly manifest, and that confound the efforts of this group of New Christians to hide it.

The final passage to be cited in this context is taken from the later sermon on *Mattot*. The climactic moment depends on an application of the rabbinic dictum, taken from the Tannaitic Midrash *Sifra*:

> *I will heap your carcasses upon your lifeless fetishes* (Lev 26:30). What do carcasses have to do with fetishes? Once Elijah was conversing about those swollen with hunger. He found a man swollen and prostrated with hunger. He asked, "From which family are you?"
>
> "From such and such."
>
> "How many are left of you?"
>
> "I alone."
>
> "Would you say one thing to save your life?"
>
> "Yes."
>
> "Say, *Hear, O Israel, the Eternal our God, the Eternal is one* (Deut 6:4), and you shall live."
>
> He shouted at him, "I will not mention the name of God, for my father did not teach me to do so."
>
> What did he do? He took his idol and placed it upon his heart and hugged and kissed it until his body split, and he fell together with his idol to the ground. Therefore it was said, *I will heap your carcasses upon your lifeless fetishes* (Lev 26:30).

Following is the application of the passage, which follows the purported rationale justifying the fulfillment of idolatrous vows cited above. Those who may have known that God punished their ancestors in biblical times thought they were safe because God did not care about such behavior outside the land of Israel:

> No, the same punitive vengeance that God wrought upon them then He wreaks now. . . . As God refused to renounce the honor due Him, as He frustrated their oaths to other gods in antiquity, so does He frustrate them in

102 MS 3:66v, *Mattot*, Num 30:3, early 1620s:
לא יאבה ה׳ סלוח וכו׳ ורבצה בו כל האלה ר״ל שגם זה הפיל ורבץ את השבועה ועכ״ז לא יעלה בידו רצונו כי יבדילו ה׳ „לרעה מכל שבטי ישראל״: לרעה יבדילנו בצרות אשר יביא עליו אבל לא בטובה שגם הוא יודה היות משבטי ישראל על כרחו את אשר רצה לכסות.

our exile. . . . Do we not see it in the experience of all those households that wanted to be like the Gentiles — how precisely upon them God's wrath abided, manifesting itself in punishments and suffering, so that they were lost, body and soul? But those who believed in God and did not abandon Him, He supported and helped to leave the environment of calamity.

This is precisely the simple meaning that emerges from the rabbinic dictum read at the beginning of my sermon. We see with our own eyes today among those descendants of Israel who are devoted to idolatry in the Iberian peninsula that they are "swollen with hunger," puffed up and filled with the wind of imaginary glory, rising in status according to the values of the Gentiles. But they are actually "swollen with hunger," for all their status is devoid of substance. It vanishes in the twinkling of an eye. We see this day after day.

God metes out His punishment through "Elijah," referring to the events and developments that impel them to return to the God of their ancestors. One of these, the most important, is their realization that though they were many, now they are few. Some of them have died horrible deaths, the traces of some have been lost in the priesthood of idolatry, some have been burned for religious reasons. That is why Elijah asked how many were in that family and how many remained: so that the man would take God's judgment to heart and realize how few had flourished in this worship. But even though he responded that he alone remained, he did not take the lesson to heart.

Therefore Elijah spoke more explicitly to him, telling him to say one thing (*Hear, O Israel*), and thereby save his life. It is exactly what happens with them, when they are approached by someone who wants to teach them. When they hear the name of God, they become angry, responding that he should not mention that name, for they did not learn it from their fathers. Thus the man in the rabbinic statement is split and dies in his swollen state, with his fetish in his hand, fulfilling the verse, *I will heap your carcasses upon your lifeless fetishes, and I will detest you*" (Lev 26:30). This destroys him, body and soul.[103]

103 MS 3:154r, *Mattot*, Num 30:11, early 1630s:
הלא נר׳ בנסיון כל אותם הבתים אשר חשבו להיות כגוים איך עליהם בפרט שכנה חמת ה׳ והראה בהם עונשיו ויסוריו ונאבדו הם ונשמתם. ואותם אשר האמינו בה׳ ולא עזבהו נתן ידו להם ועזרם ויוציאם מתוך ההפיכה. זה עצמו כפי הפשט הפשוט מה שבא במאמרנו הקודם אנחנו רואים בעינינו היום בין האדוקים בע״ז אשר מזרע ישראל המה בארצות ספרד כי בהיותם נפוחי רעב ר״ל מנופחים ומלאי רוח הכבוד המדומה להתגדל בגדולות הגוים והם ממש נפוחי רעב כי אין לכל גדולתם ממש כי בהרף עין יתמו כאשר אנו רואים יום יום.
ועם כל זה הקב״ה פוקד אותם ע״י אליהו ר״ל מתוך כמה מאורעות ומעשים אשר יעוררם לשוב אל אלהי אבותיו וא׳ מהם והעקרי חשבם כי חלף היותם הרבה נשארו מעט קצתם במיתה משונה קצתם נאבד זכרם בכומרי ע״ז קצתם נשרפו על הדת וזהו ששאל לו כמה היו מאותה משפחה וכמה נשארו כדי שיתן אל לבו משפטי ה׳ לידע כמה הצליחו בעבודה ההיא. והוא עם השיבו כי הוא לבדו נשאר לא שם לבו אל זאת עד

Here is a final, dramatic statement of Morteira's message to his congregants about the fate of the New Christians. Several important motifs are present. The New Christians achieved superficial success in Portuguese society. Yet their numbers were actually diminishing through assimilation, persecution, and entrance of some into the priesthood. The only hope for them was a return to an affirmation of their Jewish identity, yet they are unable to recognize this. More, even when they are offered the opportunity through "one who wants to teach them" – an apparent reference to the underground "proselytizing" activity among the New Christians – there is deep resistance to the Hebrew "name of God." Their fate is therefore sealed. From the other sermons it is quite clear: devastation in this, eternal damnation in the next.

This is, to be sure, a bleakly pessimistic outlook on the feasibility of successful "outreach" to the New Christians. Passages in earlier sermons present a rather different picture. Preaching on the lesson *Shemot* in early 1620, Morteira speaks of the natural affinity between the soul of the Jew and the Torah, as proven by the openness of the New Christians to the study of Torah, the eagerness with which they study it, the aptitude they display in mastering its teachings once they are exposed to it. He cites empirical confirmation that New Christians of Jewish descent have a genetic predisposition to success in Torah study:

> This is the meaning of *God's Torah is perfect, restoring the soul* (Ps 19:8), namely that the soul of the Israelite and the Torah dwell serenely and peacefully together, but not with any other religious teaching. . . . Thus we have seen that the *conversos* of Jewish descent immediately embrace the Torah when they hear something from it, for there is a close affinity between them. By contrast, it is extremely difficult for Gentile proselytes to understand it, with the rare exception of those who devote enormous energy and intense prayer.[104]

This is undoubtedly based on a Kabbalistic doctrine about the nature of the souls of Jews – even those forced to abandon their religion – and the Torah as manifestations of the Godhead.[105] A similar statement is made in a sermon

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שדבר עמו יותר בבירור שיאמר דבר א' ויחיה והוא ממש כמו שיקרה לאלו שיגש אליהם מי שירצה ללמדם והם בשומעם את שם ה' מלאי' חמה עונים הם כי לא להזכיר מפני שלא למדוהו אבותיו. ובזה הוא נבקע ומת מתוך נפיחותו ואלילו בידו לקיים מה שנא' „ונתתי את פגריכם על פגרי גלוליכם וגעלה נפשי אתכם", כי זה מאבד את גופו ונשמתו.

104 MS 3:20r, *Shemot*, Exod 1:5, 1620:
וזהו „תורת ה' תמימה משיבת נפש" ר"ל מתיישבים ושוקטים זה בזה נפש הישראלי עם התורה ולא עם תורה אחרת. . . . ולכן ראינו אנוסי בני ישראל מיד יחבקו התורה כאשר ישמעו דבר ממנה כי יש יחס גדול ביניהם, ואולם הגרים קשה להם מאד להבינה אם לא אחד מעיר בהשתדלות במרץ ובתפלות עצומות.

105 On the metaphysically different souls of Jews, see Zohar I, 13a–b, II, 95b; Johanan Wijnhoven, "The Zohar and the Proselyte," in *Texts and Responses: Studies Presented to N. N. Glatzer* (Leiden: Brill, 1959) 120–40.

on *Be-Ha'alotekha* delivered perhaps a year later: "Thus experience proves that when one speaks about Torah matters to a Jew, who is from the seed of Israel, he embraces it willingly and accepts it as if it were something he had already seen and heard, which is not true for the Gentiles."[106] Both of these passages indicate what appear to be ongoing efforts to expose New Christians to the Torah, with encouraging results.

Perhaps the frustration, discouragement, and apparent anger of the later sermon can be explained by a very different outcome in Morteira's own experience. Several scholars have recently written about an Inquisitional record dated May 15, 1635, in which Esteban de Ares Fonseca recounted his experience of the previous years. He came to Amsterdam from Lisbon, by way of Bayonne. In Amsterdam, his relatives tried to convince him to be circumcised and to live as a Jew. When he informed them he had no interest in this, "they introduced him into the company of a certain rabbi, whose name was Morteira, a preacher in the Torah of Moses, so as to convince him to practice [Judaism]. After he stayed with [Morteira] for more than six months, and after they realized that they did not have the power to persuade him, they had a ban placed on him in the synagogue."[107] It cannot be demonstrated that this occurred before the above-cited sermon on *Mattot*, which dates from the early 1630s, but that chronology is certainly possible. The exasperation of failing to convince a New Christian to accept Judaism despite six months of effort may well be expressed through the figure of Elijah — representing "someone who wants to teach them" — patiently using different arguments in an ultimately futile effort.

Why did Morteira continue to emphasize his uncompromising message of divine retribution against the New Christians who remained in the "lands of idolatry"? Two possibilities suggest themselves. He may have believed that it was possible, even from Amsterdam, to motivate Portuguese New Christians to make the right decision by threatening dire consequences if they persisted in renouncing their Jewish identity. In the letter he wrote to defend the traditional doctrine of eternal punishment against the strictures of Isaac Aboab de Fonseca, he argued that were it not for this severe doctrine, none of the New Christians living peacefully "in the lands of their enemies" would ever decide to leave.[108] Homiletical-exegetical passages and refutations of Christian claims such as

106 MS 3:140v, GS 1645, p. 57a, 1912, p. 216, *Be-Ha'alotekha*, Num 8:4, ca. 1621: ולכן הנסיון יוכיח כי כאשר ידברו מעניני התורה לישראלי שהוא מזרע ישראל יחבקה ברצונו ויקבלה כדבר אשר כבר ראה ושמע, מה שאין בא״ה [באומות העולם].

107 Joseph Kaplan, "Wayward New Christians and Stubborn New Jews: The Shaping of a Jewish Identity," *Jewish History* 8 (1994) 27–28 [27–41]; Gitlitz, *Secrecy and Deceit*, 234–35. The original text was transcribed by Julio Caro Baroja, *Los judíos en la España moderna y contemporánea* (3 vols.; Madrid: Ariel, 1961) 3:332–36.

108 Altmann, "Eternality of Punishment," 18, 50.

those cited above might conceivably have been useful to congregants who would encounter New Christians, whether on Portuguese soil or abroad, and try to convince them to return to their people.

On the other hand, good preachers do not frequently bombard their listeners with a message that is of relevance only to people living somewhere else. These powerful passages, coming at climactic points in his sermons, indicate that the subject must have been of importance to the listeners as well. Presumably, it was not just that the audience would have derived some sadistic pleasure from contemplating the eventual suffering of others, though this element cannot be entirely discounted. More important, those in the congregation who had made the decision to leave Portugal for Amsterdam had experienced a major rupture in their lives. Even those whom the Inquisition had robbed of any future stake in Portugal must have felt something of a loss. Amsterdam, with all its attractions, was not a paradise, and not all were successfully integrated into the community. Many experienced severe economic hardship, others spiritual and intellectual dislocation. Lingering doubts as to whether they had made the right decision would have been normal. To such listeners, the function of these passages would have been to provide reassurance that they had done the right thing, to convince the listeners that whatever difficulties they might be experiencing at present, the decision to cast their lot with the Jewish people would be decisively vindicated.

Some of these issues can be sensed as we turn to passages where Morteira refers to those New Christians who have chosen to leave Portuguese soil. The decision to leave Portugal and join a Jewish community was, of course, welcomed, but Morteira notes that there are different motivations for this decision, not all of which are equally acceptable in God's sight.[109] Discussing the doctrine of repentance in a sermon delivered in 1625, he reflects on those who have come for the wrong reasons. The passage begins with an evocation of the economic well-being of New Christians in Portugal, unexpectedly interrupted by "disaster" when the Inquisition intrudes into their lives:

> There are those who dwell at ease in the lands of God's enemies. Their children are with them, and their houses are filled with possessions. Feeling secure and serene, as if they lack nothing, they do not remember God or ever call Him to mind. Then, suddenly, when disaster strikes, they flee for their lives from the oppressor's wrath. They arrive in these lands and return to Judaism, thinking that God owes them much because they have done a great deed. This is not the repentance that God wants. It is rather

109 The variety of motivation among those who left Portugal is noted by Rehuel Jessurun in his *Dialogo dos montes*: "Some with holy zeal alone imbued, Others driven by ignoble terror, Still others tortures suffering in horror. . . ." Rehuel Jessurun, *Dialogo dos montes*, Philip Polack, ed. and trans. (London: Tamesis, 1975) 13. Cf. also Yerushalmi, *From Spanish Court to Italian Ghetto*, 40.

> repentance that occurs "in the very context in which they sinned" (cf. *b. Yoma* 86b), while they are living in peace and quiet and contentment: to leave it all – wealth, honors, even family – and return to God. Then He will have mercy upon them.[110]

This passage presumably would have had resonance for many in the congregation. If they themselves did not identify with the people being described, they might well have reacted, "Why that applies to so-and-so." Those who could think of themselves as having left Portugal before they actually got in trouble with the Inquisition would conclude that their "repentance" was the kind the preacher was praising; those who left to flee from the Inquisition would be pushed to recognize with contrition that their motivations were not entirely pure. We also sense here an expression of the preacher's distaste for what he presents as a kind of spiritual arrogance on behalf of some of the new arrivals, who think they have done God a great favor by coming when they actually had little choice.

On the other hand, some of those who may have come for the right reasons lose their purpose after their arrival. Here we encounter the rhetoric of criticism directed against those in the preacher's own congregation for behavior in the present. In an early sermon on *Shemot*, Morteira grafts this theme upon a biblical passage in which Saul, seeking Samuel and David, comes upon a band of prophets speaking in ecstasy, forgets his purpose, strips off his clothes and lies naked all that day and all night (1 Samuel 19:18–24):

> From this we may derive a lesson in the opposite direction, pertaining to people in this world. While it is true that they may come from great distances to gain salvation for their souls, to acquaint themselves with their Creator and come to know His works and study His Torah, for that is why they [?], yet when they are here, an *evil* spirit rests upon them. They forget what they came to do, which is the fundamental thing, and they cling to the ethos of the group that they find. Worldly things seem good to them, they forget the essentials for which they came, and they do not remember their own essence. Rather, they "lie naked" of Torah and commandments all the days and all the nights of their lives.[111]

110 MS 3:355v, *Va-Yiqra*, Lev 1:5, 1625:
כמה אנשים שקטים על שמרים בארצות אויבי ה׳ זרעם יכון לפניהם ובתיהם מלאים כל טוב כולו שאנן ושלו לא יחסרו דבר ולא יזכרו את ה׳ולא יעלהו על לב. והנה בפתע בבוא עליהם צרה וצוקה ינוסו לנפשם מפני חמת המציק ויבואו בארצות האלה לעבוד את ה׳ וחשבו כי השי״ת חייב להם כמה וכמה כי עשו פעולה גדולה. לא זו היא התשובה המבו[קשת] אלא „באותו פרק״ אשר בו חטאו בהיותם על השלוה והשקט ובישיבת הנפש יעזבו הכל: הממון הכבודות ואפי׳ קרובים, וישובו אל ה׳ וירחמם.

111 MS 3:108r, *Shemot*, Exod 1:6, early 1621 (some words illegible because of damage to page):
מזה [שמואל א יט יח–כד] ילקח משל גם כי להפך על ענין האנשים בזה העולם, כי עם אמת כי יבואו ממרחקים להצליח את נפשם ולהכיר את בוראם ולידע מעשיו וללמוד תורתו כי לכך ??רו הנה בהיותם כאן

The preacher seems aware that his biblical grounding is rather forced. Saul is distracted by something good ("the spirit of God") while the people Morteira is criticizing are distracted by something bad; Saul stripped off the externals of clothing, while the worldly "new Jews" strip off the essentials of Torah and commandments. It is the theme of forgetting one's purpose in an important venture that Morteira hopes will remain with the listeners and that they will apply to their own lives.

Undoubtedly the most significant sign of good intent on the part of the male new arrivals was the ceremony of circumcision. Even in Portugal, this ritual took on immense symbolic significance as an expression of the commitment to bind up one's life with the destiny of the Jewish people. It was not feasible on Portuguese soil, for its discovery was tantamount to a death sentence both for the individual circumcised and the one who performed the operation.[112] But for male New Christians who decided to join a Jewish community such as Amsterdam, this became the initiation ritual par excellence. Yet there were some who resisted the pressures for immediate circumcision.[113] Their hesitation went beyond a reasonable reluctance to undergo major surgery with its concomitant pain and danger of infection. So long as the male remained uncircumcised, his options remained open. He could return to Portugal, claim that he had been abroad on business, hope that no one would denounce him to the Inquisition, deny that he had ever lived as a Jew. Circumcision ended any such deniability; it was a burning of bridges with the past, a repudiation of any possibility of changing one's mind and returning to a familiar if precarious Christian identity. The leaders of the community had no interest in allowing this kind of hedging, and they insisted that circumcision be performed immediately.[114]

Many of Morteira's sermons touch upon the nature and importance of circumcision in general. I shall cite a few passages that deal with the specific issue of delaying circumcision once it is feasible. We begin with a sermon delivered early in 1619 and repeated on several later occasions. The preacher discusses the significance of circumcision as the first commandment addressed to the

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תנוח עליהם רוח רעה וישכחו מה באו לעשות שהוא העיקר וידבקו למנהגי החבורה אשר מצאו וייטב להם עניני זה העולם וישכחו העצמי אשר עליו באו וגם עמצותם לא יזכורו אבל יפלו ערומים מתורה ומצוות כל היום וכל הלילה של ימי חייהם.

112 For the significance of circumcision in "Marrano" consciousness, see Cecil Roth, "The Religion of the Marranos," *JQR*, n.s. 12 (1931) 11; Yerushalmi, *From Spanish Court to Italian Ghetto*, 37, 378; Gitlitz, *Secrecy and Deceit*, 202–207; Bodian, *Hebrews of the Portuguese Nation*, 97.

113 See Kaplan, "Wayward New Christians," 28–31.

114 For example, the Beit Israel congregation passed an ordinance in 1620 stating that anyone who was not circumcised by the coming New Year would be excluded from the synagogue after that date. Kaplan, "Wayward New Christians," 31; Bodian, *Hebrews of the Portuguese Nation*, 113. This emphasis on the importance of circumcision for Jewish identity undoubtedly underlies the highlighting of the ritual by Spinoza, who grew up in Morteira's congregation (*Theological-Political Treatise*, end of chap. 3).

people of Israel, the first observed following the Exodus and the first observed upon entrance into the land of Canaan. He mentions the seriousness of the punishment for transgressing the commandment: excision of the soul (*karet*).[115] He notes a parallel between circumcision and the commandment concerning the paschal lamb, both performed with blood, both entailing the punishment of *karet*. And then, probably emphasizing the point with increased volume and perhaps with a glance around the congregation, he concludes, "One who is able to be circumcised and is not circumcised is guilty every passing moment of a new punishment of *karet*, making for infinite punishment, and he cannot be saved. However, one who is circumcised and circumcises his sons at this time when there is no longer a paschal sacrifice — the Bible speaks of him [in Ps 50:5] as if he had offered the paschal sacrifice as well."[116]

A more extensive discussion of this message, derived from the biblical context, can be found in the sermon on the lesson *Yitro* from 1623. Addressing a classical crux in Exod 4:24–26 — on their way back to Egypt from Midian, God tries to kill Moses, and Zipporah prevents this by circumcising their son — Morteira presents a narrative reconstruction of Moses' life in Midian. Jethro, having no sons, insisted that he be allowed to educate the first son born to Zipporah for the Midianite priesthood. He therefore did not allow the first-born to be circumcised. As Jethro did not care about Eliezer, the second son, Moses had him circumcised.[117] Then Moses decided to return to Egypt:

> When Moses set out on the road, *God found him and sought to kill him* (Exod 4:24). It is unlikely that this pertains to Eliezer. The Bible does not say that he was born eight days before they set out. If he was born prior to this,

115 A detailed discussion of the halakhic debate over the nature of the *karet* associated with the failure to circumcise — whether it is a spiritual punishment or early death — appears in a sermon on *Be-Midbar* from 1622 or 1623: MS 136v.

116 MS 3:115v, *Be-Shallah*, Exod 13:19, Jan. 26, 1619, repeated in 1626 and 1650:
וכיון שיכול למול ואינו נימול בכל רגע זאת חייב כרת חדש עד לאין סוף ואינו [יכול] להנצל, ואמנם מי שנימול ומל את בניו בזמן הזה שאין לנו פסח משל עליו הכתוב כאילו הקריב גם הוא את הפסח, שנ׳ אספו לי חסידי כורתי בריתי עלי זבח, ר״ל במקום הזבח.
With Morteira's use of Ps 50:5 in this context, compare Bahya ben Asher on Gen 17:13. A sermon on *Tazri'a*, probably delivered on the Sabbath preceding Pesach a year or two after the first, similarly emphasizes the importance of circumcision and the analogies between this commandment and the paschal sacrifice, expressed through all ten of the Aristotelian categories. It ends with the assertion that the merit of these two commandments brought about the liberation from Egypt and will bring about the "destruction of the fourth kingdom" and the end of the present exile. MS 3:46v, *Tazri'a*, Lev 12:3, early 1620s.

117 This is based on a midrashic tradition, preserved in *Mekilta* (ed. Lauterbach, 2:168–69), that Jethro's condition for allowing Moses to marry his daughter was that the first son would be raised as a Gentile, a condition that Moses accepted by an oath. Cf. Ginzberg, *Legends of the Jews* (7 vols.; Philadelphia: JPS, 1912) 2:294–95, 328, 5:92, 423. Morteira expands upon this tradition, and ignores others in the rabbinic literature, for the purposes of the point he will make.

why would Moses have refrained from circumcising him? Yet the verse says that there was only one uncircumcised son. Therefore, it must pertain to Gershom, who was not circumcised because of the aforementioned reason: that Jethro prevented it. When he heard from Moses that God sent him, he gave Moses his two sons. Once he was outside his father-in-law's house, he decided to wait for the circumcision until he reached Egypt. But as "God deals strictly with His pious ones, to a hair's breadth" (*b.Yebam.* 121b), He met Moses and sought to kill him, until Zipporah circumcised their son. He called him a *bridegroom of blood* (Exod 4:26), meaning that on the day of his wedding, because of his oath, he was obligated about this blood without knowing what he had sworn. *From this we learn how God pardons the sin of those who dwell among the Gentiles and are not able to be circumcised because their lives would be endangered. However, once they have the opportunity [and neglect it], God punishes them immediately.*[118]

Just as Moses was not punished for failing to defy his father-in-law by circumcising Gershom in Midian, so the failure to undergo circumcision, or to perform it on one's sons, in Portugal itself is not held by God against the New Christians. But if the life of Moses could be imperiled by the delay in circumcising once he left Midian, even though he intended to do so as soon as he reached civilization in Egypt, it is obvious that any delay by those who reached Amsterdam would entail serious danger, and could not be tolerated.

How did the members of the Portuguese community in Amsterdam think of their former homes, the country they abandoned? Several passages in the sermons reflect upon Morteira's understanding of the complex emotions associated with this rupture. One major problem encountered by many of the new arrivals was economic hardship, the result, as we have seen, of the difficulty of transferring wealth to the new environment. The ambivalent impact of this hardship on the memories of the past can be seen in two sermons, using different biblical models.

118 MS 3:270r, *Yitro*, Exod 18:4, 1623:

ולכן כאשר לא היו לו [ליתרו] בנים היה רוצה שהבן הבכור שיולד לצפורה בתו יכהן תחתיו ולכן השביע למשה שלא יסע אלא ברשותו . . . והוא [משה] לא ידע [את כוונת יתרו] עד אשר נולד לו בנו הראשון ואז מיד לקח זקנו יתרו וגדלו על ברכיו ולא נתנו להמול והוא כמצטער על זה קראו גרשם מלשון גירושין, שגרשו ממנו ולקחו יתרו בביתו לגדלו על ברכיו כי אמר „גר הייתי בארץ נכריה" ואיני יכול למחות בידו, ואולם כאשר נולד לו בנו השני קראו אליעזר . . . וכאשר לא היה מקפיד יתרו עליו מל אותו משה.

כאשר יצא משה לדרך „ויפגשהו ויבקש המיתו" (ע"פ שמ' ד כד). הנה רחוק הוא שהיה הענין על מילת אליעזר כי לא סופר שנולד שמנה ימים קודם שיצא לדרך ואם נולד קודם למה נתעכב מלמולו? והכתוב מעיד (שמ' ד כה) כי הבלתי נימול לא היה כי אם אחד. לכן היה הענין בגרשם שלא נימול לסיבה שנאמרה שעכבו יתרו. וכאשר שמע מפי משה שה' שלחו הנה נתן לו בניו שניהם, ובהיותו חוץ מבית חמיו והיה ממתין למולו עד הגיעו למצרים. הנה בהיות ה' מדקדק עם חסידיו כחוט השערה פגשו ה' ויבקש המיתו עד שמלה אותו צפורה. וקראו חתן דמים ר"ל כי ביום חתונתו בשביל שבועתו מתחייב על הדמים ההם מבלי שידע מה שישבע. ומכאן יש ללמוד איך השי"ת נושא עון היושבים בין הגוים ואינם יכולין להמול מפני סכנת נפשם, אולם בהיות לאל ידם מיד יענישם.

The first is the sermon on *Yitro* that we have just cited, delivered in the late winter of 1623. In the above passage, Midian was a type for life in exile; here, Egypt represents the full harshness of exile and Midian the relative freedom of Amsterdam. The preacher focuses on Moses' mental outlook in the house of Jethro:

> When people who find themselves in a difficult situation remember a far more serious one from which they have been saved and enabled to escape, the current problem seems like nothing to them, and they are thankful to God that they have escaped from the other. For example, the "children of Israel" who have left Portugal, though they live here in conditions of severe economic hardship that make even the provision of food a burden, nevertheless accept it all cheerfully, giving thanks to God for having saved them from the terrible suffering and the fearful oppression they experienced in the place they left. For when they were back there, they used to say, "If only we could escape from this place, we would be content to eat grass." So it was with Moses: though he was living in the house of his father-in-law, dependent on others, earning his keep with difficulty as a shepherd, when he thought of the place from which God had saved him he rendered praise and thanks.[119]

This may indeed be an idealized portrayal of the mentality of the recent arrivals, as other passages will indicate. But the terrors of Portugal and the economic hardships of Holland seem familiar enough to be used as an explanation for a biblical situation: the relationship between the life-threatening danger of Egypt and the difficult but secure existence in Midian. The preacher's purpose would be defeated unless the listeners recognized his description of current circumstances as valid.

A very different mental psychological outlook is depicted in a sermon delivered some fifteen years later. The point of departure is the astonishing characterization of Egypt made by Dathan and Abiram in the lesson *Korah: Is it not enough that you brought us from a land flowing with milk and honey to have us die in the wilderness?* (Num 16:13). Morteira takes the common reaction to this verse and uses it to drive home his message:

> Now when we hear what happened in those days, we ask about it [in amazement], considering these people to be inordinately evil. Yet every day our

119 MS 3:269v, *Yitro*, Exod 18:4, 1623:
בדרך בני אדם כאשר יראו עצמם בצרה אחת כאשר יזכרו מאצרת אשר ניצולו ויצאו ממנה לא תראה בעיניהם כלום ויתנו שבח לאל על כי ניצולו מן האחרת. ז״מ בני ישראל אשר יצאו מפורטוגאל אם יהיו כאן בדוחק ובצער ובקשת המזונות הנה יקבלו הכל בסבר פנים יפות ויתנו לאל אשר הצילם מן הצרות הגדולות והאימות הנוראות שהיו עוברים עליהם במקום שיצאו משם, כי אף בהיותם שם היו אומרים מי יתן ונצא מן המקום הזה ונאכלה את עשב הארץ. כן קרה למרע״ה כי עם היותו בבית חותנו סומך על שולחן אחרים ומרויח מזונותיו בדוחק בהיות רועה צאן, כאשר היה חושב מאין הצילו השם היה נותן לו שבח והודאה.

> ears hear similar things, and we are not amazed! For what difference is there between these [Dathan and Abiram] and those whom God has brought out with great strength and a strong arm from the Iberian peninsula — a place where death is present at every moment, where terror and fury never cease — and brought them to a peaceful land, where they can save their bodies and their souls from death. Yet day after day, when they "remember the fish" (cf. Num 11:5), they praise that land and sigh over it, showing contempt for the land in which they now live. Do they not transform God's mercies into evil? There is no difference between these people and those in the Bible, for they are already prefigured in Scripture. . . . Therefore, just as the punishment of [the biblical rebels] was extraordinary, so will be the punishment of all who are similar to them, Heaven help them![120]

As in the previous passage, biblical Egypt serves as a type for the Iberian peninsula with its terrors. But unlike Moses, whose life in Midian provided a proper model for the Jews in Amsterdam, those who idealize Egypt in their memories because of the difficulties of life in the wilderness pervert the entire order of God's plan. The rhetorical power of the passage derives from the expected assent among the listeners that the villainous view recorded in the biblical lesson is indeed to be found at present.

In this passage, Morteira speaks of those who think longingly of Portugal and show contempt for their new surroundings. Related to this, but more extreme in its challenge to the community, was the decision actually to return to the Iberian peninsula. We have already encountered one individual who was able to resist the arguments of Morteira and, after more than six months in Amsterdam, returned to make a full deposition before the Portuguese Inquisition. Several scholars have drawn attention to various kinds of source material indicating that the return to Spain or Portugal, whether permanently or on a limited journey, was by no means exceptional during our period. A communal ordinance from the year 1644 reflects the extreme disfavor with which the Amsterdam leadership viewed such behavior by members of their community.[121] Morteira's sermons show that he was scandalized by the idea of returning and spoke out forcefully against it long before the ordinance was passed.

120 MS 1:83v, *Korah*, Num 16:14, 1638:
והנה אנחנו השומעים אשר היה בימים ההם משתוממי׳ על הדבר ונשפוט את אלו למופלגים ברשעתם. ואזנינו תשמענה בכל יום ויום כיוצא בדברים האלה ולא נבהל! כי מה הפרש יש בין אלו ובין אותם אשר הוציאם ה׳ בכח גדול וביד חזקה מארץ ספרד, מקום אשר המות מצוי בכל עת והבהלה והרוגז לא יחדלו, ויביאם אל ארץ שוקטת בה ינצלו את גופם ואת נשמתם ממות, ומידי יום ביומו בזכרם את הדגה ישבחו את הארץ ההיא ויאנחו עליה ויבזו את [הארץ] אשר [הם] בה. הלא הם מהפכים חסדי ה׳ הגדולים לרע! ואין הפרש בין אלו לראשונים כי כבר הונח בכתוב דוגמתם לקיום מה שנ׳ כל פעל ה׳ למענהו: לעדותו, ולכן כאשר היה עונש אלו משונה כן יהיה עונש כל כיוצא בהם ה׳ יצילנו.

121 On the return to the Iberian peninsula, see Cecil Roth, "The Strange Case of Hector Mendes

Early in 1622, in a sermon filled with social criticism, Morteira commented on the rabbinic statement, "Whoever feasts excessively anywhere will eventually destroy his household, make his wife a widow and his fledglings orphans, and forget what he has learned" (*b.Pesaḥ.* 49a). His explication of the final phrase is, "'He will forget what he has learned,' for this often requires one to forget God by going to a land of idolatry. This causes the fear of God he had learned to be forgotten."[122] Travel to the "lands of idolatry" was terminology that everyone understood to refer to the return to the Iberian peninsula. Economic distress in Amsterdam was one of the reasons that impelled such journeys on the part of individuals who may still have retained assets or business connections in their former homes, and hoped to return briefly without being denounced to the Inquisition. The brief phrase thus alluded to a real issue in the community. Less than a year later, Morteira discussed at length, using biblical examples, the pattern by which children are punished in the place where their parents were punished, concluding, "therefore it is proper to stay far away from the places where harm occurred to one's parents."[123] There is no explicit reference here to the Iberian peninsula, but it stands to reason that this was the message that would have been heard by the listeners.

Some fifteen years later, in the context of the public dispute over eternal punishment in hell, Morteira argued that the denial of the traditional doctrine would remove an important deterrent from one "whose heart impelled him to return to the land of impurity."[124] And a few years after that, in a sermon for the Sabbath of Repentance, he waxed eloquent on this problem. The first sentence reiterates a theme we have seen above: the economic inducement of Iberian New Christians to remain where they are. But then he moves on to the matter at hand, choosing his biblical model with precision:

Bravo," *HUCA* 18 (1944) 221–45; Assaf, "Anusei Sefarad u-Fortugal be-Sifrut ha-Teshuvot," *Me'assef Tziyon* 5 (1933) 22–23; Yerushalmi, *From Spanish Court to Italian Ghetto*, 34–35; idem., "Professing Jews in Post-Expulsion Spain and Portugal," in *Salo W. Baron Jubilee Volume* (3 vols.; Jerusalem: American Academy for Jewish Research, 1974) 2:1023–58; Jonathan Israel, "Manuel López Pereira of Amsterdam, Antwerp and Madrid," 109; Joseph Kaplan, "Pesaqim mi-Beit ha-Din shel ha-Qehillah ha-Sefaradit-ha-Portugalit be-Amsterdam," in *Mehqarim al Toledot Yahadut Holland* 5 (1988) 28–30; idem, "The Travels of Portuguese Jews from Amsterdam to the 'Lands of Idolatry,'" in Joseph Kaplan, ed., *Jews and Conversos* (Jerusalem: Magnes Press, 1985) 197–224; Bodian, *Hebrews of the Portuguese Nation*, 24, 77. The text of the regulation, given in Kaplan, "Travels," 205–206, is somewhat puzzling, as it applies only to those who intend to abandon Judaism or observe Christian worship in Spain or Portugal, not to those who go on a temporary visit for business purposes, yet its sanction would apply only to those who later returned to the Amsterdam community.

122 GS 1645, p. 24d, 1912, p. 114; cf. Saperstein, *Jewish Preaching*, 283 (see above, n. 70).

123 MS 3:258r, *Va-Yiggash*, Gen 44:22, 1622: ילכן הנני הוא להתרחק מן המקומות שארע בהם נזק לאבות.

124 Altmann, "Eternality of Punishment," 50.

> Because of their money they abandon God, remaining in the lands of their enemies and worshipping another god in order to care for their wealth, their lands, and their houses. Worse than this: some of them go back there, like Lot's wife, who looked behind her and became a pillar of salt (cf. Gen 19:26). She did not understand the great act of kindness God had performed for her in saving her from that conflagration, but looked behind her, in defiance of God's command. Her concern was for her property rather than for God's act of kindness; therefore she became a pillar of salt. And this is the fate that will befall those who have escaped from the conflagration yet return there to take out their property: they will remain a useless pillar of salt burnt by brimstone. We see examples of this every day.[125]

The biblical narrative, of course, is not explicit about the reason for Lot's wife turning back in violation of the instructions. Concern for her wealth is only one proposal in the exegetical tradition.[126] It is the one that fits Morteira's purpose in condemning the return to Iberia out of material interests.

The preacher then shifts to different biblical precedents. He moves from the biblical laws of kingship and the history of the return from Babylonian exile to an explicit application to the Iberian émigrés:

> God commanded that from that first evil and sin-producing land from which He brought the Israelites out the king must not get horses lest he bring the people back there (Deut 17:16). It was against God's will for the people to return to that evil land. From that example we learn about others.
>
> When God brought the Jews out of Babylonia, some of them brought forbidden wives — Sidonian, Moabite, Hittite — as is written in the Book of Ezra. When they divorced them, following Ezra's counsel, it is obvious that these women returned to their fathers' homes in their own countries. It was forbidden for the men to return to those countries, lest they take up again with these women. Similarly, when God has brought out a number of the "children of Israel" from the sin-producing Iberia: it is certainly an abomination in God's sight for someone to return there in order to increase

125 MS 3:307r, *Ha'azinu*, Deut 32:21, 1641:
ובשביל ממונם ימירו אלהים וישארו בארצות אויביהם עובדים לאל אחר כדי לחוס על ממונם קרקעותיהם... ובתיהם. ולא זו בלבד אלא כמה מהם יחזרו אחור כעין אשתו של לוט אשר הביטה מאחריה ותהי נציב מלח ולא הבינה גודל החסד אשר עשה ה' עמם להצילה מתוך השרפה הגדולה ההיא אלא הביטה לאחריה נגד ציווי האל וחמלה על ממונה במקום החסד הגדול ההוא ותהי נציב מלח, כן יקרה לאשר נמלטו מן השריפה וחוזרים אחור לקחת ממונם הנה ישארו נציב מלח בלי תועלת, גפרית ומלח שרפה כאשר ראינו מעשים בכל יום.

126 That of Abravanel, *Bereshit*, p. 251a. Other proposals were that she was a skeptic and turned to see if it was really being destroyed (David Kimhi), and she looked back out of compassion for her married daughters to see if they were coming (*Pirqei de-R. Eliezer*, chap. 25).

his wealth. God has said to you, *You shall never go back that way* (Deut 17:16), for it is like Egypt, nay even worse in its sins. Those who have not paid heed have aroused God's wrath.[127]

In this passage, we sense the preacher drawing from biblical literature to make the strongest possible emotional appeal. He tarnishes Spain and Portugal with the most negative associations of biblical geography — Sodom, Egypt — and those who endanger their physical and spiritual lives for business interests are branded as violating a divine prohibition. This is rhetoric used to attack a serious communal problem. It may well have been this kind of preaching that created the atmosphere for the communal ordinance, which followed not long after. Yet the logic of Morteira's position should have produced an ordinance that prohibited even the temporary visit for business purposes, to which the enactment does not apply. It is also possible, therefore, that Morteira, pushing for something stronger, lost this battle, overruled by the lay leaders of the community, who had their own reasons for keeping open the option of a commercial trip to Iberia. Powerful preaching may be moving and inspiring, but it does not always determine communal policy.

Any presentation of a single theme in a monumental body of work such as the extant sermons by Morteira is bound to mislead. While Christianity and the New Christians are a significant focus of this preacher's homiletical efforts, they were by no means the central concern. The fundamental purposes of the sermons were to provide a sustained program of sophisticated yet accessible adult education that would anchor his congregants in the tradition they were constantly discovering; to defend that tradition against internal challenges by validating those aspects of rabbinic literature that seemed arbitrary, foolish or incomprehensible to inquiring minds or restless souls in the pews; to define and defend the boundaries of acceptable doctrine and behavior for a community seeking to construct its identity and establish its reputation within the context of world Jewry. The evidence reviewed in this article suggests that in Morteira's judgment, in order to help his congregants build up a new identity as Jews, it was necessary to tear down their former identity as Iberian Christians. Despite the risks of offending Dutch neighbors, this end is pursued as vigorously and as passionately as the other, more constructive goals of his preaching.

127 MS 3:307r, *Ha'azinu*, Deut 32:21, 1641:
רצוה ה׳ שמן הארץ הראשונה הרעה והמחטיאה אשר הוציא את בני ישראל משם לא יוציא סוסים למען לא ישיבם שם כי אין רצונו ית׳ שישובו אל הארץ המרשעת. מזה נלמד לאחרים כי הוציאם ה׳ מבבל ומשם הביאו כמה נשים אסורות צדוניות מואביות חתיות ככתוב בספר עזרא וכאשר הוציאום בעצת עזרא מן הסתם שבו לבית אבותם לארצם ויהיה להם אסור לשוב שמה למען לא ישובו להתערב עם הנשים ההמה. כמו כן הוציא ה׳ כמה וכמה מבני ישראל מארץ ספרד המחטיאה, הנה ודאי כי תועבת ה׳ השב שמה למען הרבות כסף וזהב, וה׳ אמר לכם ולא תוסיפון לשוב בדרך הזה כי היא כמצרים וגרועה ממנה בחטאתיה ואשר לא שם לבו כעס את ה׳ בהבליו.

Three Pseudo-Lublin Yiddish Books From 1624

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Careful study of three Yiddish booklets leads to the conclusion that they were likely printed by one printer, but almost certainly not in Lublin. The evidence is typographic — fonts of type used, metal ornaments, and woodcuts. The booklets are typographically inconsistent with other books printed in Lublin but fully consistent with a group of books that bear dates from 1620 to 1631 and either omit or falsify the place of printing, as seems to be the case with the three books studied here. Some bibliographers have attributed some of these books to Hanau, but I prefer "Hanau(?)" for the whole group, including the three titles now disassociated from Lublin, until more typographic or documentary evidence provides the basis for a firmer resolution of the question than is now possible.

Yiddish books have, for the most part, been printed in Hebrew characters. But, for several centuries, from the sixteenth into the twentieth, the Hebrew letter forms most often used for Yiddish books were significantly different in appearance from the standard Hebrew alphabet that we readily recognize.

I have been especially curious about the different typefaces that were used in the first 100 years or so of the printing of books in Yiddish. Aside from Hebrew square type and the so-called Rashi or rabbinic type, both of which were sometimes used for Yiddish, the characteristic type that came to be used was modeled on Ashkenazic rabbinic handwriting. It has been called *Vaybertaytsh* ("translation for women") and other gender-centered names; I have been calling it "Yiddish Type" to avoid any negative connotation. So far, I have identified over twenty different Yiddish Types in the period up to 1635; these have been printed in over twenty places.[1]

This is not to say that each place of printing had its own typeface. In fact, the same typeface was sometimes used in different places; and, in some places, more than one typeface was employed. For example, the Yiddish Type used first in Augsburg in 1543 was in use in Venice from 1545 to 1552 and in Mantua in 1557 and 1558. Examples of cities with more than one typeface can again be Venice and Mantua, since, in the 1560s and later, Mantua used a Yiddish Type that was first used in Cremona in 1560; and Venice seems to have inherited that Cremona type by 1588. Wandering printers and the impermanence of printing

1 Herbert C. Zafren, "Variety in the Typography of Yiddish: 1535–1635," *HUCA* 53(1982)137–163.

establishments may account for both the wandering of type and the need to design new typefaces. The practice on the part of printers to model their type after the local handwriting also probably accounts for some of the variety.

There are cases of more than one Yiddish Type in use at the same time in a given place. Sometimes, this is only a matter of more than one size type in use at a time (e.g., Basel, Cremona, and Prague each used two sizes at once); sometimes it is more than one printer in a place (e.g., Basel, where two very similar fonts of the same size were used). Still, it is unusual for more than one Yiddish Type to be in use at the same time in the same place, and occurrences of this kind do attract one's attention.

Documentation of Yiddish printing in Lublin is notoriously slight. Chone Shmeruk,[2] in his basic article on Yiddish printing in Poland up to 1648/49, recorded thirteen Lublin books, counting the three-volume *Sefer Hamagid* of 1623–27 as three books. Of these thirteen, only seven are actually attested by surviving copies. Working partly from facsimiles, I have identified three Yiddish typefaces in the seven books. One typeface appears in both the *Tsemach Litsvi*[3] of 1622 and in volume one of the *Sefer Hamagid*,[4] dated 1623 (fig. 1). The second typeface appears in the second and third volumes of *Sefer Hamagid*,[5] 1624–27 (fig. 2). The third Yiddish Type (fig. 3) appears in three Yiddish booklets[6] with Hebrew titles, dated to 1624: *Yetsiras Odom, Shir Vezemer Noeh al Oyrekh Hagoles* and *Mogen Avrohom*. It is on these three books that I wish to focus attention.

The *Yetsiras Odom* is a booklet of four leaves that was translated from a Hebrew original with Lurianic connections. It describes the miracles that God performs in the creation of each person, how He assigns an angel to each person, how the angel shows him "Gan Eden" and "Gehenna" and makes very clear how performing the mitzvot ultimately ends up as the key to paradise.

The *Mogen Avrohom* is also a booklet of four leaves, translated from the Hebrew *Ma'aseh Meavraham Avinu*. The point of this text is that just as God was quick to help Abraham when Abraham was in deep trouble, so God will surely help anyone who calls upon Him in time of need.

The *Shir Vezemer* . . . is a Hebrew and Yiddish musar poem in twenty leaves by Elchanan Heln of Frankfurt am Main.

It is entirely understandable that all three of these little books have confidently been attributed to Lublin, despite the fact that only the *Shir Vezemer* . . . actually has "Lublin" printed in it. The same Yiddish Type appears in all three books;

2 Chone Shmeruk, "Reshima Bibliyografit shel Defusei Polin beYiddish ad Gezerot Tach veTet," *Kiryat Sefer* 52 (1997) 383–417.

3 Shmeruk, no. 44, pp. 404–6.

4 Shmeruk, no. 45, pp. 406–8.

5 Shmeruk, nos. 49 and 50, pp. 409–11.

6 Shmeruk, nos. 46–8, pp. 408–9.

they all have the same style border on their title pages, composed of the same arabesque ornament or fleuron; and they all have their Hebrew titles printed in the same large square Hebrew type. Further, the ornamental woodcut that appears on the title page of the *Shir Vezemer* . . . also appears in *Yetsiras Odom*, as does a little acorn-like fleuron. Fleurons, woodcuts, and typefaces, both Hebrew and Yiddish, argue that these three books were printed in the same shop. If one was printed in Lublin, then so were they all. The corollary is that, if any of these three little books was not printed in Lublin, then probably none was.

Why might one suspect that they may *not* have been printed in Lublin? Two areas of suspicion suggest themselves. If the typographic characteristics of the books are substantially different from other books printed in Lublin, then one could legitimately be suspicious. And if the characteristics of the books are substantially similar to books printed elsewhere, one could legitimately be suspicious. If both areas of suspicion are present, one has a very good case indeed.

Let us see if these books *are* substantially different from Lublin books that are not under a cloud of suspicion. There are, unfortunately, only two other Yiddish titles, in four physical volumes as noted above, that can be used for comparison. Fortunately, they cluster from 1622 to 1627. The *Tsemach Litsvi* of 1622 uses the same Yiddish Type as the first volume of *Sefer Hamagid* (fig. 1). All four of these Yiddish volumes name the same Lublin printer, Tsvi bar Avraham Kalonymus Jaffe; and the three volumes of *Sefer Hamagid* all give Lublin as the place of printing. The fact that a second Yiddish Type is used in the later volumes of *Hamagid* (fig. 2) is inconsequential because other printing characteristics provide the necessary connections: two Hebrew square types and a rabbinic type are common to the four books. If further links to Lublin are sought, they may be found in Lublin Hebrew books of the period, e.g., the *Zohar* of 1623/4 (fig. 9) and the *Chidushe Agadot* of 1627 (fig. 10) by MaHarsha. In these Hebrew books, several typefaces, metal ornaments, and at least one woodcut are absolutely consistent with *Tsemach Litsvi* and all three volumes of *Hamagid*. The facsimiles (figs. 1–2 and 9–10) contain the data and the first chart, "Lublin Books," shows the homogeneity of the Lublin books of the period.

No such consistency can be found with our three little books, *Shir Vezemer* . . . , *Yetsiras Odom*, and *Mogen Avrohom*. They share absolutely no characteristics with books certainly printed in Lublin, whether Hebrew or Yiddish. Though they, too, have a basic arabesque fleuron, it is not the same as Lublin's. One of the three books says that it was printed in Lublin, but we still need to be suspicious of it and of the other two. Typographic *nonconformity* demonstrates that they were almost certainly not printed in Tsvi Jaffe's printing shop in Lublin. If only the books themselves had named another printer! But they do not name any printer.

It would be very convenient if I could demonstrate that some other city was where the three books attributed to Lublin were definitely printed.

Unfortunately, I cannot. I can name other books which have a close typographical affinity to these three books, but *their* places of printing are also under a cloud, in part of my own making. Let me explain.

The first Yiddish book printed in the German city Hanau was the *Yudisher Teriyak*, printed in rabbinic type in 1615, five years after Hebrew printing started there. In 1617, a Pentateuch with a Yiddish commentary was printed in Hanau in a then new Yiddish Type. This Yiddish Type was used again and again in Hanau and in books attributed to Hanau until at least as late as 1626 (fig. 4).

In a study published some time ago,[7] I showed that Hanau Hebrew and Yiddish books fall into two distinct periods. The first was from 1610 to 1622, during which years the place of printing, Hanau, appeared in every book. In the second period, from 1623 to 1630, the name of the place does not appear in any of the books, but this fact has not prevented their attribution to Hanau by virtually all bibliographers. I pointed out in that article that there was a major typographic "divide" between the two periods. Of the many typefaces, metal ornaments or fleurons, and woodcuts used in the two periods, only a Yiddish Type, one fleuron, and one woodcut were without question used in both periods. For these and other reasons, I concluded that there was insufficient evidence to attribute the 1623 to 1630 books to Hanau, even though I do not know where they were printed. I call these Hanau "with a question mark," that is, "Hanau(?)."

To compound the problem, several books that have various other cities printed in them as their places of printing have been attributed to Hanau because of typographical affinities to the Hanau(?) books. There is, for example, the Hebrew book entitled *Sefer Hakavanot* (fig. 5) by Isaac Luria which prints Venice in roman characters ("Venetia") and 1620 in Arabic numerals as its place and date of publication, with a Venetian printer's name added. Another example is the very substantial book in four parts collectively titled *Ta'alumot Chochmah* (fig. 6). This book has Basel on its composite title page and on each of its four individual title pages and, variously, the dates 1629 and 1631. Joseph Prijs, the bibliographer of Basel Hebrew imprints,[8] attributes this Pseudo-Basel title to Hanau.[9] Finally, there is a 1622 two-volume *Tsene Rene* edition (fig. 7) that has Basel on its title pages (both the Chumash part and the Megilot/Haftarot part), and Prijs attributes these to Hanau as well.[10] My only disagreement with Prijs, remember, is that I would attribute them to "Hanau(?)" because of their affinities to the post-1622 books (which I am not convinced were actually printed in

7 Herbert C. Zafren, "A Probe into Hebrew Printing in Hanau in the Seventeenth Century . . . ," in Sheldon Brunswick, ed., *Studies in Judaica, Karaitica and Islamica presented to Leon Nemoy* . . . (Tel Aviv: Bar-Ilan Univ. Press, 1983) 273–85.

8 Joseph Prijs, *Die Basler Hebräischen Druecke* . . . ergänzt . . . von Bernhard Prijs (Olten und Freiburg I. Br; Urs Graf Verlag, 1964).

9 Prijs, no. (320), pp. 475–79. See figure 6.

10 Prijs, no. (319), p. 471. See figure 7.

Hanau). The various typefaces, fleurons, and woodcuts are consistent with Hanau(?), post-1622.

The Yiddish Type used in the *text* of the 1622 Pseudo-Basel *Tsene Rene* is the Hanau Yiddish Type that is used in both periods. But on the *title pages* of both parts of the Tsene Rene, a second Yiddish Type is used (fig. 7). This second Yiddish Type is also used in several lines in at least one other Hanau(?) book, the Brant Shpigl of 1626 (fig. 4), thus cementing the connection. But what was so startling to me, when I first realized it, was that this second Yiddish Type is the same type that is used in the three books thought to have been printed in Lublin! Then a close examination of the square types of these books, and the woodcuts and the fleurons, showed them all to be fully compatible with Hanau(?).

The second chart, "Non-Lublin Books," and the facsimiles demonstrate the typographical relatedness of this group of books. I will here call specific attention only to several characteristics of the 5.5 mm. type and the 2.0 mm. type. The *alef* in the 5.5 mm. type has a most unusual curve in its top right limb.[11] The *yud* in this size has a straight down vertical,[12] also very unusual. The *nun* is not quite as extreme, but it has a particularly long base.[13] In the 2.0 mm. size, the *tet* stands out like an error because it is so large.[14] It is highly unlikely that different fonts would repeat such a grotesque letter; so wherever it appears, it signals that the same font is being used. The combination of unusual typographic features provides an almost unmistakable "typeprint" that can identify a printing establishment the way a fingerprint identifies a person.

The typographic evidence, then, is that the three so-called Lublin books are not compatible with standard Lublin printing and *are* compatible with a group of books that never have 'Hanau" printed in them, but do speak of Venice and Basel, and most often have no place of printing at all.

Is it possible to disentangle this web? Let us first look at the facts, and then we may speculate. The facts are:

1. The place of printing is given as Hanau in all books printed in Hanau through 1622.
2. Other books without place of publication and with minimal pre-1623 Hanau characteristics were printed in 1623, 1625–1628, and 1630 and later attributed to Hanau by bibliographers.
3. Books with typographic characteristics compatible with these 1623–1630 books bear the following imprints: Venice, 1620; Basel, 1622; Lublin, 1624; Basel, 1629 and 1631.

11 See figure 3.
12 See figure 3.
13 See figure 5.
14 See figure 8.

These are the facts. What might they mean? One obvious possibility is that some printer or printers put Venice, Basel, and Lublin in some of their books as pure fabrications, perhaps because they were printing some place illegally and wanted to direct the attention of the authorities away from their own town. But there is another possibility, namely, that the same printer might have traveled back and forth and from place to place and actually printed each book where it says it was printed. The gaps in Hanau(?) printing, the years 1624, 1629, and 1631 would be neatly filled with books from the other cities. The Venice, 1620, book does not fill a gap, however; and the 1622 *Tsene Rene* is also a problem, because the year 1622 is not a gap.

Two further facts help to clear up the Venice obstacle. One is that 1620 is on the title page in Arabic numerals, but the Hebrew chronogram yields 1624. Secondly, there was an actual Venetian edition of the *Sefer Hakavanot* published in 1620. It is not terribly unusual for a later edition to copy slavishly from an earlier one, even including wrong places and dates of publication. Sometimes, the reason is to disguise the place and date of reprinting; sometimes it is pure error. If the printer was not intentionally falsifying the date, then this book is a 1624 product and, therefore, is not an impediment to the speculation that our printer was peripatetic.

Let me try to describe a best case scenario for the hypothesis that those 1623 to 1630 Hanau(?) books were indeed printed in Hanau and that those books that say they were printed elsewhere, with the possible exception of the Venice *Sefer Hakavanot*, were printed where they stated.

The scenario begins in 1620 when two small Yiddish books were printed in Hanau, the *Yeshuos Venekhomos* and the *Olom Habo*. In 1621 and 1622, the Hanau printer was very busy with two Talmud volumes, *Mishnayot Miseder Tohorot* and *Chulin*. With such a large Hebrew project, the printer could spare his Yiddish Type, a woodcut, and a fleuron or two. This limited repertoire was taken by a colleague or colleagues to Basel where they produced the *Tsene Rene* with the Hanau type, augmented by some newly acquired Hebrew square and Yiddish Type. The first part of the *Tsene Rene* was completed on February 4, 1622.[15]

In this scenario, the Basel producers of the *Tsene Rene* returned to Hanau with their old and new type and other paraphernalia to print some prayer books in 1623. In 1624, they sped off to Lublin to print the three little booklets that are the focus of this study. The *Sefer Hakavanot*, which may have been printed in 1624, presents the scenario writer with a dilemma. The idea of a rush to Venice to print one book there stretches credulity to the breaking point. Back to Hanau from Lublin or Venice for a dozen or so books till 1628, then a book in Basel, another little one in Hanau in 1630, and three more parts of the *Ta'alumot*

15 Prijs, *Die Basler Hebräischen Drucke*, p. 475, quotes this date from the book's colophon.

Chochmah in Basel in 1631. What a travel and printing schedule!

Earlier, I postulated that the three little books were either all printed in Lublin or all not printed in Lublin. I also posited that these books stand typographically with the Hanau(?) books of 1623 to 1630 and with the Pseudo-Basel and the Pseudo-Venice books, but not with any of the other Yiddish typefaces used from 1535 to 1635.[16] Given the futile exercise of the above incredible scenario that tries to see them all as printed where they say they were, we turn to an alternate family of hypotheses that claim that they were all printed at any one of the places in question: all at Lublin or all at Basel or all at Venice or all at Hanau.

All of these hypotheses have similar problems. If all of the Hanau(?) books were printed in any one of the four places, why does the printer so often leave the place of printing out entirely and fabricate a false one from time to time? Why doesn't he ever give his name on the title page? (Only typesetters' names are occasionally mentioned in colophons.) Why, in the hypothetical cases of Venice, Lublin, or Basel, is there no typographical connection *at all* to other books printed in those places? If, on the other hand, Hanau is in fact the place of printing, what happened to the broad repertoire of Hebrew type, fleurons, and woodcuts that was available from 1610 to 1622? None of the hypotheses is satisfactory.

Another fact is worthy of mention. A rather early type specimen sheet was published by Johann Berner in Frankfurt am Main in 1622. Among the seven Hebrew fonts presented on this broadside are two that appear in Hanau(?) books, namely, the 5.5 mm. square Hebrew with the unusual *alef* and *yud* and the 2.0 mm. square with the characteristically oversized *tet*. Facsimiles of this specimen sheet have been published;[17] but the original has been mourned as lost in World War II. I am happy to report that the original has been found in the institution where it resided before the war, the Stadt- und Universitätsbibliothek of Frankfurt.

The date of the specimen sheet, 1622, muddies the water a bit, it being the very year that we find these two unusual fonts presumably used in Basel. Since this type was foundry type, it was readily available to any printers who wanted to buy it. This may seem to support the hypothesis that the books that bear the imprints Venice, Basel and Lublin may actually have been printed in those places – without carrying the same type from city to city at a hectic pace. Yet, certain other facts cast doubt on this scenario. One is that the type had no staying power in Venice, Basel, and Lublin. Only one to three books from each of these

16 Zafren, *Typography of Yiddish*, 137–63.

17 John Dreyfus, ed., *Type Specimen Facsimiles* (London: Bowes and Bowes Putnam, 1963). No. 3 is the facsimile of the 1622 Berner type specimen sheet with seven Hebrew type fonts, "reproduced from a collotype made in 1926 . . . from the only recorded copy . . . The original was destroyed during the Second World War . . ." pg. 7.

cities hardly add confidence to a theory that requires a supposition that at least four cities bought two new Hebrew typefaces between 1622 and 1624 and then used them for only one to nine years. This theory also does not explain how the other typefaces, woodcuts and metal ornaments were "quadruplicated" to make them available in four places! So much for the credibility of this scenario. On the other hand, if Hanau(?) was the only place where the "pseudo-place" and "no place" books were actually printed, then we do not need to conjure up a far-fetched explanation that has several scattered presses acquiring type that they used for a few books in less than a decade and the printers then mysteriously disappearing from the scene with their type.

Might Hanau(?) with a question mark actually be identical to Hanau without a question mark? The known facts do not yet permit a reliable answer to this question. Speculation suggests that at least Frankfurt is also a candidate.[18] Jews did not openly print Hebrew books in either Hanau or Frankfurt during most of the seventeenth century, and only a handful of Hebrew books were printed in Frankfurt prior to the last quarter of that century. Hanau did not resume printing Hebrew books — it stopped in 1630 or 1631 — until 1708. Some Hanau(?) characteristics are evident in the late 17th century in Frankfurt and in the early 18th century, in Hanau. Either Hanau or Frankfurt could turn out to be the mysterious Hanau(?). Indeed both could be. Frankfurt Jews were regularly behind the printing effort in nearby locations,[19] and they could have moved the printing establishment short distances such as the several miles between Frankfurt and Hanau. If they were printing without license to do so, then disguising their activities and misdirecting or hiding their location were essential to success.

Thus, my search for any reasonable place of printing with typographic characteristics compatible with Hanau(?) still continues. Some books printed in Franeker in the Netherlands utilize the 2.0 mm. square Hebrew type, but they lack the other characteristics of Hanau(?). The use of this type in Franeker only shows that the type was available even before the 1622 specimen sheet advertised it.[20]

18 The note accompanying the description of *Sefer Hakavanot* in Yitshak Yudlov, ed., *Ginze Yisrael* (Jerusalem: Jewish National and Univ. Library, 1985) no.1082, calls attention to *Kiryat Sefer* 26 (1950)320 and 27(1951)283–84, which refer to other literature on the subject, including a claim that the book was printed in Frankfurt.

19 Herbert C. Zafren "Hebrew Printing by and for Frankfurt Jews — to 1800," in Karl E. Grözinger, ed., *Jüdische Kultur in Franfurt am Main . . . ein internationales Symposium* (Wiesbaden: Harrassowitz, 1997) 232–71.

20 The earliest occurrence of the 2.0 mm. square type with the large *tet* that I have come across in a book is dated 1621. The book is *Grammatica Hebraea* by Petrus Martinius (Amsterdam, Apud Henricum Laurentium Bibliopolam. Typis Frederici Heynsii Typogr. in Acad. Franekeranâ, 1621). A full description, but with an incorrect identification of the type used, is in L. Fuks and R.G. Fuks-Mansfeld, *Hebrew Typography in the Northern Netherlands 1585–1815* (Leiden: Brill, 1984) 81, no.116.

There is a very real printing connection between Hanau and Lublin that is of some interest. First, three tractates of the Talmud were printed in Hanau between 1618 and 1622. Tsvi Kalonymus Jaffe in Lublin gradually began to print the Talmud in 1617 and continued for over twenty years. But he incorporated the three Hanau-produced tractates into his edition rather than printing them again in competition. Second, one of the most frequently named of Hanau and Hanau(?) typesetters was Mordecai ben Jacob of Prossnitz. Mordecai had been a typesetter in Lublin before he began to set type in Hanau in 1610, and Mordecai's brother continued to be a typesetter in Lublin for several years after 1610. Neither of these two "connections" seems to shed any light on our subject except perhaps to suggest why the Hanau(?) printer may have chosen Lublin, out of a whole universe of possibilities, as one of the false places of printing.

The focus of this essay is to refute the attribution of three little Yiddish books to Lublin, thus unavoidably reducing the number of attested Yiddish books printed in Lublin up to 1648–49 to two titles in four volumes. The three orphaned books are here reunited with siblings printed in an unnamed place and in places probably named falsely. Undeniably a tenuous connection exists between all of these books and books reliably printed in Hanau from 1610 to 1622; but as I have maintained elsewhere in detail,[21] this connection does not give us the right to label the later books as Hanau books. While it may be psychologically soothing to find definite answers to all questions, the advancement of knowledge requires that unknowns be so labeled. The best that we can now say is that the three books should not be attributed to Lublin and that they were probably printed wherever the Pseudo-Basel, Pseudo-Venice, and Hanau(?) books were printed — perhaps Hanau, perhaps elsewhere.

21 Zafren, "A Probe into Hebrew Printing in Hanau . . ." See note 7.

Chart 1

Lublin Books

	square type (7.5 mm.)	*square type (4.3 mm.)*	*square type (3.0 mm.)*	*rabbinic type (2.0 mm.)*	*title-page, woodcut gate*	*leaf fleuron*	*right-hand pointer*	*squarish ornament*	*basic lublin arabesque*
Tsemach Litsvi, 1622		•	•	•					•
Hamagid vol. 1, 1623, (fig. 1)	•	•	•	•	•	•	•		•
Zohar, 1623–24, (fig. 9)	•	•	•	•	•	•	•	•	•
Hamagid vol. 2–3, 1624–27, (fig. 2)	•	•	•	•	•	•	•	•	•
Chidushe Agadot, 1627, (fig. 10)	•	•	•	•	•			•	•

Chart 2

Non-Lublin Books

	Hanau (?) Yiddish type	5.5 mm. square type	3.75 mm. square type	2.0 mm. square type (big *tet*) (fig. 8)	woodcut 1 (fig. 5)	woodcut 2 (fig. 11)	woodcut 3 (fig. 12)	woodcut 4 (fig. 4)	acorn fleuron	basic Hanau (?) arabesque
Tsene Rene Pseudo-Basel 1622?	•	•	•							•
Yetsiras Odom Pseudo-Lublin 1624	•	•							•	•
Mogen Avrohom Pseudo-Lublin 1624	•	•			•					
Shir Vezemer . . . Pseudo-Lublin 1624	•	•	•	•				•	•	•
Sefer Hakavanot Pseudo-Venice 1624		•	•	•	•	•				•
Shulchan Aruch Hanau (?) 1625–28				•		•	•			
Brant Shpigl Hanau (?) 1626	•	•	•					•	•	•
Sefer Maharil Hanau (?) 1628					•					
Ta'alumot Chochmah Pseudo-Basel 1629–31		•	•	•			•			•

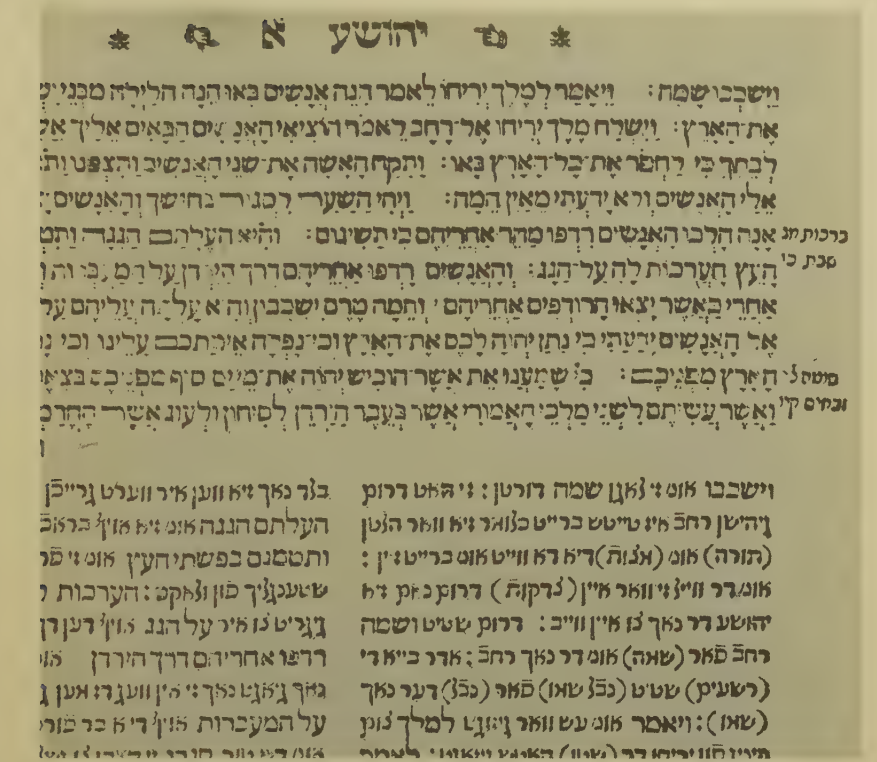


Figure 1. Yiddish type, number 1, Lublin. Volume 1 of *Sefer Hamagid* (1623). Note also, right hand pointer, leaf (fleuron), and 2.0 mm. rabbinic type. By courtesy of the Curators of the Bodleian Library, Oxford.

Figure 2. Yiddish type, number 2, Lublin. Volumes 2–3 of *Sefer Hamagid* (1624–27). Note also, squarish metal ornament. By courtesy of the Curators of the Bodleian Library, Oxford.

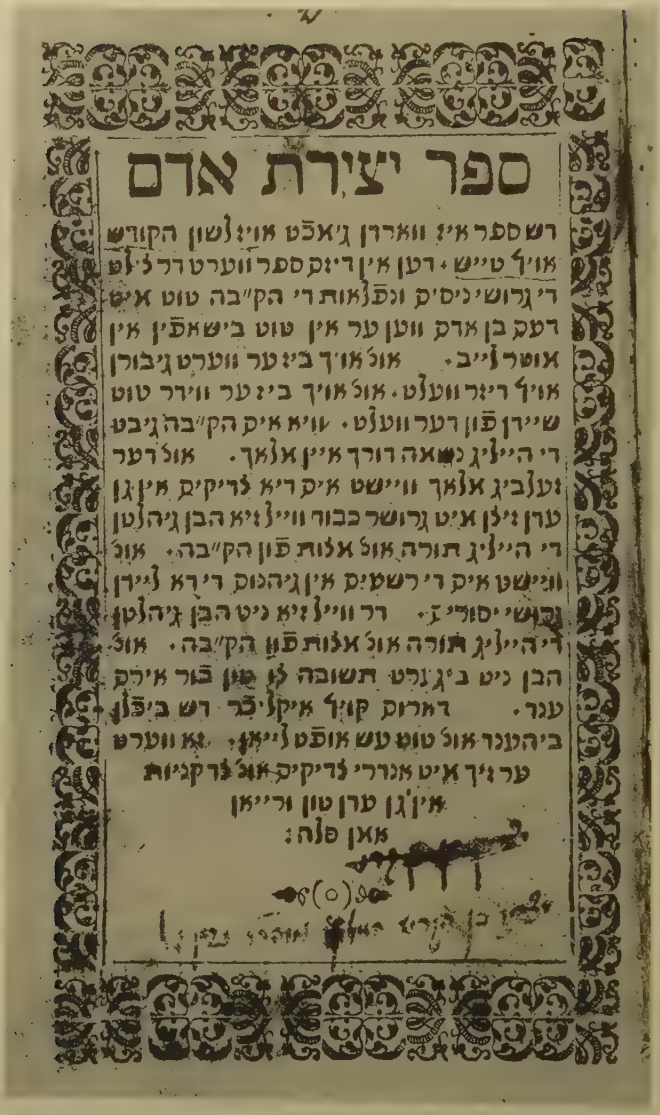

ספר יצירת אדם

Figure 3. Yiddish type, Pseudo-Lublin. *Yetsiras Odom*, etc. Note also, basic Hanau(?) arabesque fleuron, acorn (fleuron), 5.5 mm. square Hebrew type with unusual *alef* and *yud*. By courtesy of the Curators of the Bodleian Library, Oxford.

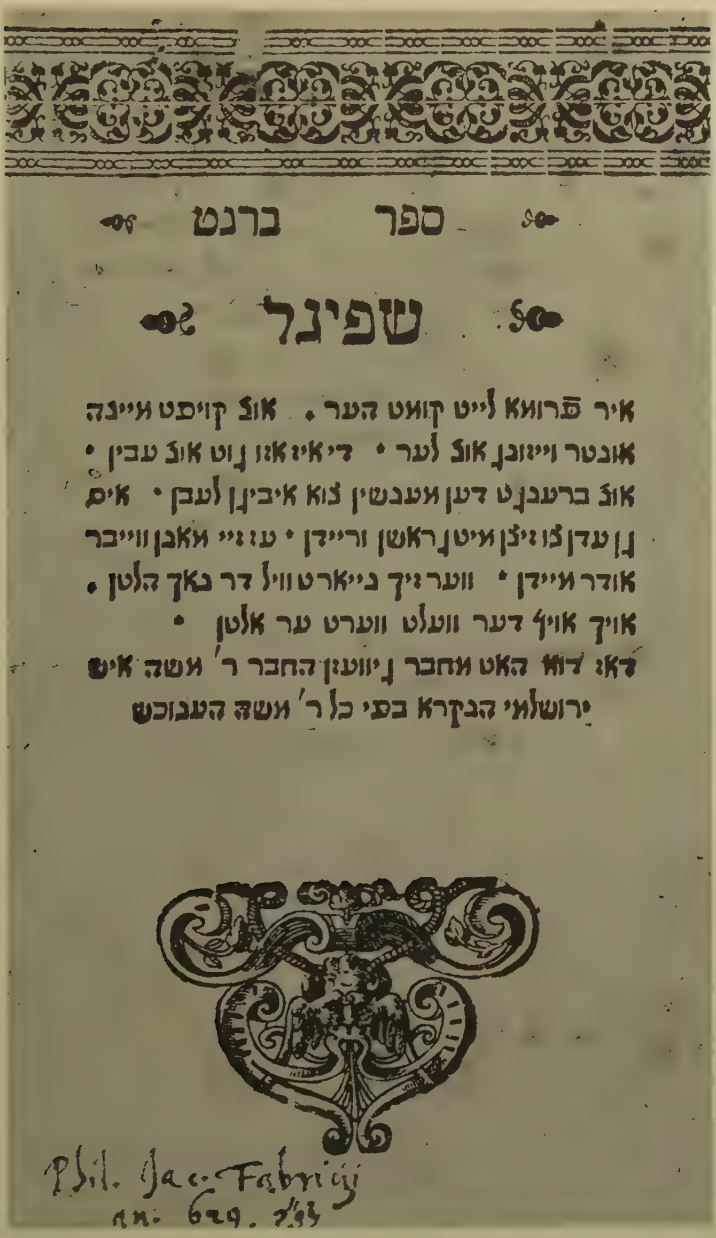


Figure 4. *Brant Shpigl*, Hanau(?), 1626. Note Pseudo-Lublin Yiddish Type, basic Hanau(?) arabesque fleuron and Woodcut 4. By courtesy of the British Library, London.

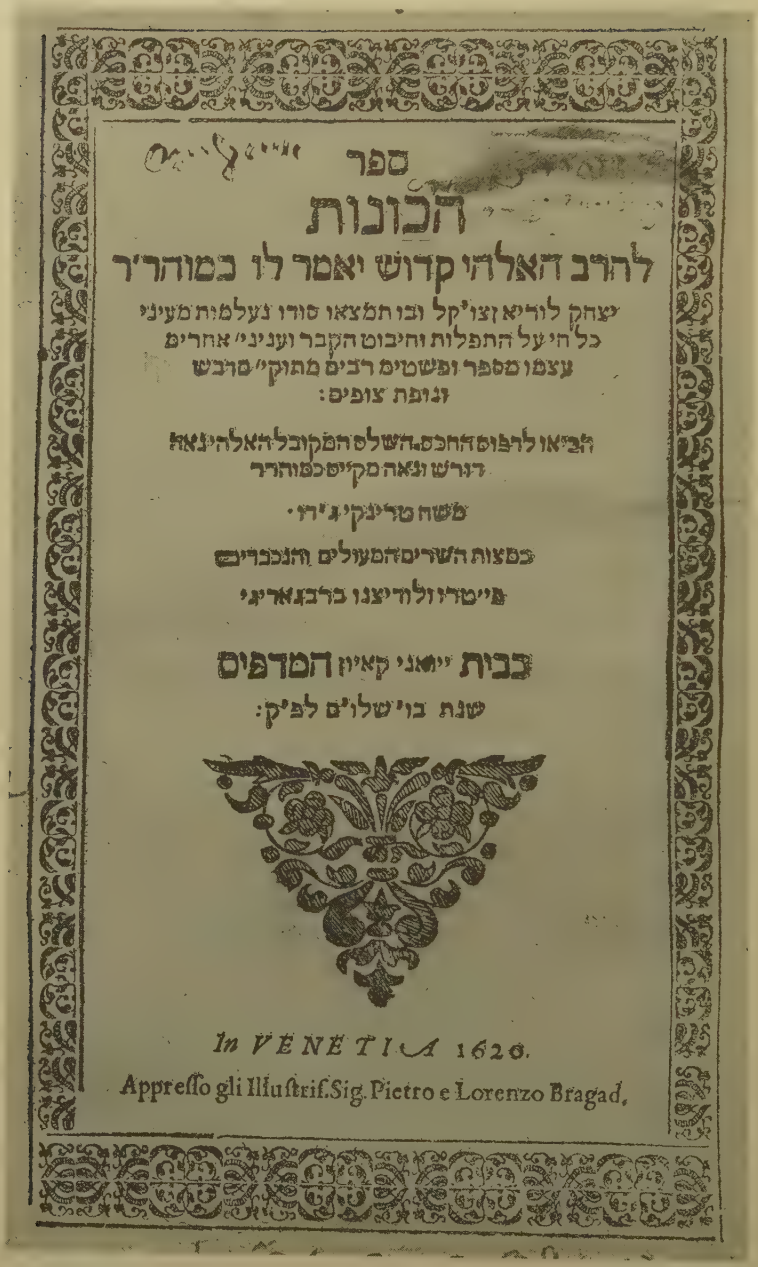

ספר
הכונות
להרב האלהי קדוש יאמר לו במוהר"ר
יצחק לוריא זצו"ק ובו תמצאו סודו נעלמות מעיני
כל חי על התפלות וחיבוט הקבר ועניני אחרים
עצמו מספר ופשטים רבים מתוק" מדבש
וזופת צופים:
הביאו לדפוס החכם השלם המקובל האלהי נאה
דורש ונאה מקיים כפוהרר
משה טרינקי ג"ר.
כמצות השרים המעולים והנכבדים
פייטרו זולדיצנו ברבגאריגי
בבית יואני קאיון המדפיס
שנת בו"שלו"ם לפ"ק:
In VENETIA 1620.
Appresso gli Illustrif. Sig. Pietro e Lorenzo Bragad.

Figure 5. *Sefer Hakavanot*, Pseudo-Venice, 1624? Note the basic Hanau(?) arabesque fleuron in the border; 2.0 mm. square type with oversize *tet*, 3.75 mm. square type, and 5.5 mm. square type, the last with unusual *nun*; and Woodcut 1. By courtesy of the Hebrew Union College Library, Cincinnati.

ספר

נובלות חכמה

המלמד לאדם דעת ומזמה

ובו עלים כמנין אלה׳ נובלת עליה ג׳ברות מרבר בו

בכללות עולם התוהו לפי דרך הרב החסיד

כמהר״רי אשכנזי זל

וספר

נובלות אורה

עסרת שרא נהורא: אשר בו דרושים יקרים

משמחי לב וסחם ליהודים

היתה אורה:

אשר אסף וקבץ וברר החכם השלם הכולל השר

אלוף סגריאל כמוה״ר שמואל בכהר״ר יהודה

ליב אשכנזי נרו

מתוך ספרים שונים שחבר

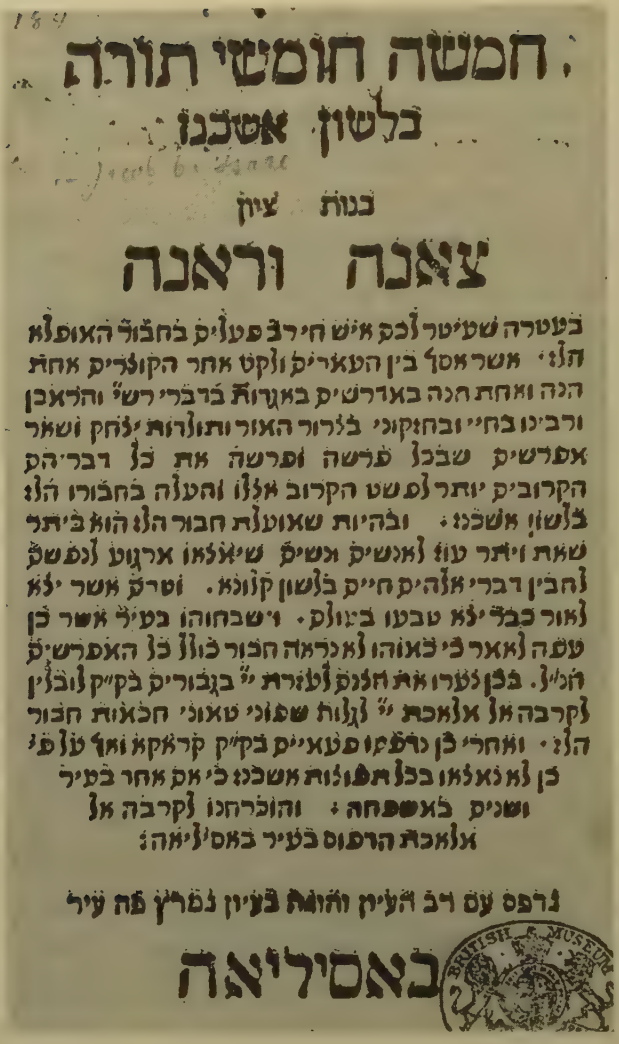
הה הרב הכולל האלהי כבוד מורנו הרב

רבי יוסף מקנדיאה יזיא

נדפס בבסיליאה שנת

קול רנה ו ושועה כאהלי צריקים:

Figure 6. From *Ta'alumot Chochmah*, Pseudo-Basel, 1629–31. Note the square Hebrew type in 2.0 mm. (with the oversize *tet*), 3.75 mm. and 5.5 mm as well as the Hanau(?) basic arabesque fleuron and a border made up of ellipses and small circles. By courtesy of the Hebrew Union College Library, Cincinnati.



חמשה חומשי תורה
בלשון אשכנז
בנות ציון
צאנה וראנה
בעטרה שטיטר לכם איש חי רב פעלים בחבור האופלא
הלז: אשר אסף בין העאריק ולקט אחר הקוצרים אחת
הנה ואחת הנה באדרשים באגרות בדברי רש"י והלאכן
ורבינו בחיי ובחזקוני בלורר האור ותולרות לחק ושאר
אפרשים שבכל פרשה ופרשה את כל דברי הם
הקרובים יותר לפשט הקרוב אלנו והעלה בחבורו הלז
בלשון אשכנז: ובהיות שאועלת חבור הלז הוא ביתר
שאת ויתר עוז לאנשים אשיק שיאלאו ארגוע לנפשם
לחבין דברי אלהים חיים בלשון קונם. וטרם אשר ילא
לאור כבר ילא טבעו בעולם. וישבחוהו בעיל אשר כן
עשה לאמר כי באוהו לאנראה חבור כזה כל האפרשים
הנ"ל. בכן נעזרו את חננם לעזרת "בגבורים בקיק ובלין
לקרבה אל אלאכת "גלות שפוני טאוני חכאות חבור
הלז: ואחרי כן נרפסו פעאים בקיק קראקא ואף על פי
כן לא נאלאו בכל תפוצות אשכנז כי אם אחר בעיל
ושנים באשפחה: והוברחנו לקרבה אל
אלאכת הרפוס בעיר באסיליאה:
נרפס עם רב העיון והוזת בעין נמרץ פה עיר
באסיליאה

Figure 7. From *Tsene Rene*, Pseudo-Basel, 1622? Note the square Hebrew type in 5.5 mm. with the unusual *alef* and *yud* and 3.75 mm. By courtesy of the British Library, London.

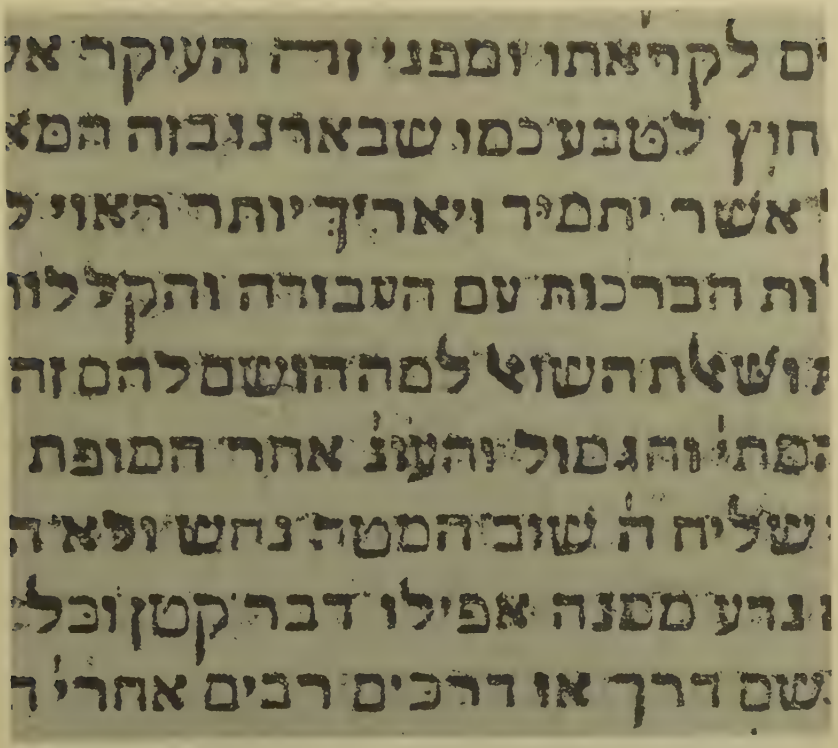


Figure 8. Enlarged from page facing figure 5. Note the large *tet*.

Figure 9. From *Zohar*, Lublin, 1623/4. Note leaf (fleuron), squarish ornament, and basic Lublin arabesque fleuron. By courtesy of the Hebrew Union College Library, Cincinnati. Image is reduced.

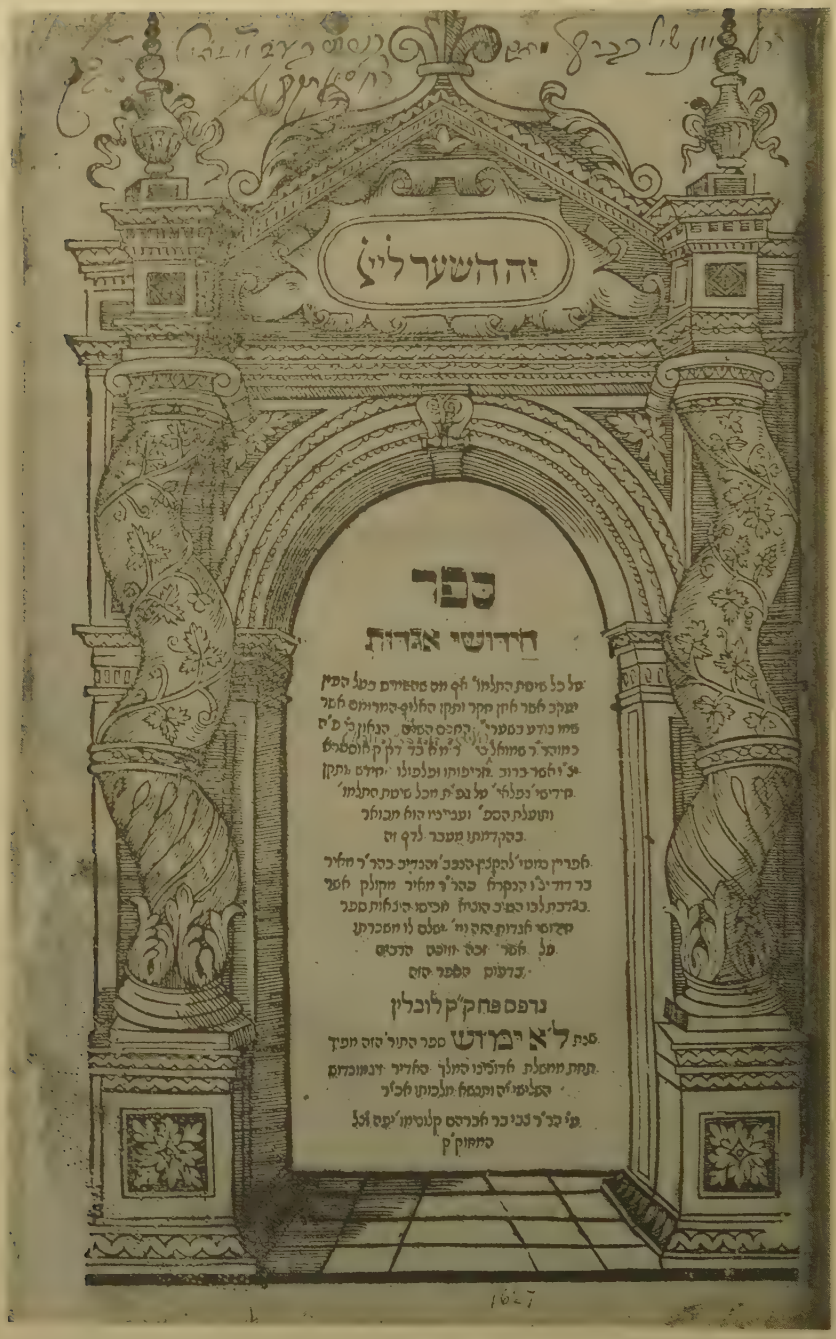


Figure 10. *Chidushe Agadot*, 1627. Note square Hebrew types and the woodcut "gate." By courtesy of the Hebrew Union College Library, Cincinnati. Image much reduced.

Figure 11. Woodcut 2 from *Sefer Hakavanot* (Pseudo Venice, 1624?). By courtesy of the Hebrew Union College Library, Cincinnati.

Figure 12. Woodcut 3 from *Shulchan Aruch* (Hanau[?], 1625–1628). By courtesy of the Hebrew Union College Library, Cincinnati.

Claude Montefiore in the Context of Jewish Approaches to Jesus and the Apostle Paul

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German and American Jews tend to be the focus of many of the standard treatments of Reform thought in the nineteenth and twentieth centuries. Anglo-Jewry is usually regarded as something of an intellectual backwater and any ripples of innovation have tended to be explained in terms of foreign influence. There are exceptions to this rule, however, and Claude Montefiore is one striking example of a radical English Jew. A co-founder of Anglo-Liberal Judaism, Montefiore was a scholar who specialized in New Testament studies to an extent unparalleled by his German or American contemporaries, and who arguably set the agenda for Jewish New Testament scholarship. This essay considers the ways in which Montefiore viewed the two central figures of Christian thought and the ways in which he utilized their teachings as a means to justify his own brand of Judaism. In particular, it considers in what sense he regarded Jesus' teachings as original and new and how he believed various aspects of Paul's thought could be used to inspire religious Jews. By placing Montefiore's views in the context of other Jewish writers, it is hoped that his innovative contributions to Jewish-Christian understanding and his unique place among Jewish religious leaders will be made clear.

Claude Joseph Goldsmid-Montefiore (1858–1938) was an Anglo-Jewish biblical scholar and philanthropist. Together with Lily Montagu, he is usually regarded as the founder of Liberal Judaism in Britain. He was also President of the Anglo-Jewish Association (an important communal representative body concerned with foreign affairs) from 1895–1921, that is, during a period of growing European anti-Semitism and the rise of Zionism. Although Montefiore was not a professional theologian or scholar, he produced twenty books and many other articles, lectures and pamphlets on biblical and rabbinic Judaism, Christianity and Liberal Judaism, and was the first Jew to gain a Doctorate of Divinity in England (from the University of Manchester). In terms of scholarship he is perhaps best remembered for *The Synoptic Gospels*, a two volume translation and commentary, and for *A Rabbinic Anthology*,[1] a thematic selection of rabbinic ethical teaching.

1 C.G. Montefiore, *The Synoptic Gospels* (2d ed.; 2 vol.; London: Macmillan, 1927), originally published in 1909. C.G. Montefiore and Herbert Loewe, eds., *A Rabbinic Anthology* (London: Macmillan, 1938).

Montefiore once observed with regard to English and American Jews that "five-sixths of their conception of life are Christian."[2] He was one of many who recognized the effect of assimilation and the adoption of the values and practices of the dominant Christian culture. But in contrast to those who had condemned such developments from the mid-nineteenth-century onwards as "de-judaisation," Montefiore saw it as a good thing.[3] He believed that many English Jews felt spiritually akin to their Christian environment, remarking that he found "in middle-class Jews, when not corrupted by Zionism, curious resemblances and odd likenesses to middle-class Christians."[4] He did not find this surprising since they lived within a society that had been shaped by the forces of Christianity. It was only a matter of time, he felt, before a complete identification with the Gentile population in all matters except that of religious persuasion would be possible. It was even in their own interest for the Jews to embrace Christian culture since, he argued, this was the best way to deal with anti-Jewish feeling. The solution to anti-Semitism was to encourage the Jewish people to identify themselves completely with their host nation in all but religion and he thought of himself as an "Englishman of the Jewish faith." While this assimilationist view was not exceptional among the Anglo-Jewish élite who enjoyed the privileges of Victorian (Christian) culture it was, as Todd Endelman has argued, exactly what the majority of British Jews did not want to do.[5] In any case, Montefiore himself was prepared both to identify with such a cultural environment and label it as "Christian." He wrote,

> [For] the Jews of Europe and America who live in a *Christian environment* and amid a civilization which has been partially created by the New Testament, our right relation towards it must surely be of grave and peculiar importance. *For this civilisation is also ours*. The literature, which is soaked through and through with New Testament influences, is also *our* literature. The thought, which has been partially produced by the New Testament, is the thought amid which we are reared, which we absorb, to which we react . . . The very air we breathe, the moral, literary, artistic influences which we suck up from our childhood, are to a large extent, the same as those which surround and affect our Christian fellow citizens.[6]

2 C. G. Montefiore, "Judaism and Democracy," *Papers for Jewish People* (vol. 16; London: Jewish Religious Union, 1917) 22.

3 This was the influential position of Abraham Benisch, editor of the *Jewish Chronicle* from 1855–68, for example.

4 From a letter to Lucy Cohen, uncertain date. Lucy Cohen, *Some Recollections of Claude Goldsmid-Montefiore 1858–1938* (London: Faber & Faber, 1940) 105.

5 Todd M. Endelman, *Radical Assimilation in English Jewish History, 1656–1945* (Bloomington, Ind.: Indiana Univ. Press, 1990).

6 C. G. Montefiore, *Liberal Judaism and Hellenism and Other Essays* (London: Macmillan, 1918) 78–79.

The relatively high assimilation of Anglo-Jewry in contrast to European Jewry, and their readiness to adopt so much of the surrounding Victorian culture meant that, increasingly, British Jews absorbed much of the Christian world-view. This was certainly true of Montefiore who could later recall that although his upbringing was very Jewish in teaching, observance, and atmosphere, very few Jews except their relations ever came to the house; their family friends were mainly Gentile: "Our childhood environment," he wrote, "was entirely uncosmopolitan and purely English."[7] Several of his tutors had been Christian clerics, with whom he had often attended church services, and he regarded their influence positively throughout his life. His considerable humanitarian and philanthropic activities in London and elsewhere had placed him in constant contact with Evangelical Christian charities, while a close friend of his, Baron von Hügel, was a Catholic with mystical leanings. He had a special interest in the Unitarian theological training school, Manchester College, and regarded the Unitarian minister, Joseph Estlin Carpenter, as another close friend. Most of all, however, it was the British modernists and liberals to whom he had been most exposed and was most familiar. From his undergraduate days at Oxford University, where he had studied Classics under the renowned Church of England minister Benjamin Jowett, he had become intimately aware of what it meant to be an Anglican liberal. Generally speaking, this de-mystified, ethical, liberal Anglican theology came to represent for him Christianity *per se*. This unusual background, in which Montefiore was constantly exposed to Christian influence, undoubtedly influenced his own thought and there can be little doubt that both consciously and subconsciously he adopted many of their presuppositions and attitudes as his own. He himself expressed the consequences in a letter to the Anglican intellectual, Hastings Rashdall, writing,

> I don't feel so far apart. You see, I have lived with and *loved*, Christians all my life. My dearest friends have been and are, passionate Roman Catholics, Anglicans (of all sorts) and so on . . . I can see with their eyes and feel with their feelings. It is a curious position which can only happen to those who belong to a wee minority and mix (thank God) very intimately with a big majority.[8]

In *Response to Modernity*, Michael Meyer observed that the Protestant environment had proved more conducive to Reform Judaism than had the Catholic, on a world-wide level.[9] It had provided a greater impetus in terms of the theological model, the rejection of an old hierarchy, the vernacular liturgy, the central

7 Cohen, *Some Recollections*, 31.

8 From a letter to Hastings Rashdall (Nov. 7, year uncertain). Bodleian Library MS Eng. Lett. 351, fol. 97.

9 Michael A. Meyer, *Response to Modernity; a History of the Reform Movement in Judaism* (Detroit, Mich.: Wayne State Univ. Press, 1995).

importance of the sermon in services and the lessening of the importance of ritual.[10] Montefiore was brought up in the Reform Synagogue (established 1841), which, with its cautious theological character, correlated to American Conservative Judaism. His Jewish Religious Union (1902), which incorporated members from across the religious spectrum, eventually evolved into his Liberal Jewish Synagogue (1910), which came to approximate the more progressive American Reform. Many of those who joined the new movement had grown up in Anglo-Reform synagogues in London, Manchester and Bradford.[11] (Montefiore himself remained a council member of the West London branch and preached there throughout his life). For such men and women, a more radical approach was deemed necessary if Judaism was to retain the masses of disenchanted Jews, to fully take into account the findings of biblical criticism, and if its development as a truly universalist religion was ever to be realized. Montefiore's modernist theology was undoubtedly the main driving force behind the Anglo-Liberal movement, although certain aspects of his thought never achieved general support among its members. One example of this was his conviction that not only did Judaism and Christianity complement one another but that the future of Religion itself depended upon an amalgamation of what he regarded as the best of their teachings. As a result, an important part of Montefiore's Liberal Jewish program was a re-examination of the New Testament. This article will consider his attitude towards the originality of Jesus, and his attempt to redeem what he could of the apostle Paul for the Jewish people.

Jewish Views on the Originality of Jesus' Teaching

It is noteworthy that, generally speaking, modern Jews have not denied the existence of Jesus. One might have imagined that such a stance would have been tempting for anti-Christian polemicists; after all, there were certainly nineteenth- and twentieth-century Christian scholars who argued so. No doubt this was partly due to their fear for the general well-being of the Jewish community. Jewish writers such as Geiger or Graetz might not have wanted to attract unnecessarily a Christian backlash, or to be seen to side with radical Christian scholars such as the nineteenth-century German Bruno Bauer (who believed that Jesus was an invention of the Gospel evangelists) because of Bauer's open anti-Jewishness.[12] Perhaps there was a certain pride, even then, in the fact that Jesus had been a Jew, and therefore a reluctance to distance themselves entirely from one of the world's greatest religious thinkers, especially one so highly

10 Ibid., 143.

11 Reform congregations were established in West London (1840), Manchester (1856), Bradford (1873). Reform services were also held in Hull in the 1850s and in Clapham from 1875–77.

12 S. Sandmel, *We Jews and Jesus* (New York: Oxford Univ. Press, 1965) 65.

esteemed by their Christian neighbors. An insightful explanation was offered by Sandmel, who observed that

> A Jew versed in Scripture and in Talmud who enters into the pages of the Synoptic Gospels finds himself in familiar territory. He can be irked, annoyed, or aghast at the ferocity of the anti-Jewish sentiments, but he is nonetheless in a geography which does not seem strange to him . . . Such a Jewish person, for all that he would agree with Strauss that the Gospels are replete with legends and contradictions, would nevertheless hold to the opinion that Gospels and Talmud are similar weavings of similar threads, and such a person would say to a Bauer that no imagination could out of thin air create so authentically the religious scene and the flavour of Palestinian Judaism.[13]

Sandmel's sense of *déjà vu* was undoubtedly shared by other Jewish writers familiar with rabbinic writings; the Gospel evidence for the life and teaching of Jesus, however flawed, presented too Jewish a picture to be wholly rejected. In fact, the significance of rabbinic literature for New Testament studies had long been recognized by Jewish scholars. Geiger had viewed it as more relevant than the Apocrypha, Pseudepigrapha or Hellenistic writings, and Abrahams had explained that by its use "The real Jesus emerges to the clearer light of day."[14] Montefiore, like Abrahams, was concerned to demonstrate the proximity of rabbinic thought to Jesus' own. His *Rabbinic Literature and Gospel Teachings* was a supplement to the *Synoptic Gospels* and aimed to correct some of the distortion contained in the extensive and influential *Kommentar* by the German-Christian scholars Strack and Billerbeck.[15]

Rabbinic knowledge was undoubtedly useful to Jewish scholars in gaining understanding of the Gospels. Nevertheless, there was a danger that the sense of familiarity that it encouraged could lead to over-confidence in the notoriously complex world of New Testament studies. Many Jewish scholars well-versed in rabbinic thought apparently believed that they could automatically assess

13 Ibid.

14 Donald A. Hagner, *The Jewish Reclamation of Jesus; an Analysis and Critique of the Modern Jewish Study of Jesus* (Grand Rapids, Michigan: Zondervan, 1984) 68. I. Abrahams, "*Rabbinic Aids to Exegesis*," in H. Swete, ed., *Cambridge Biblical Essays* (London: Macmillan, 1905) 192.

15 C. G. Montefiore, *Rabbinic Literature and Gospel Teachings* (London: Macmillan, 1930). Strack-Billerbeck, *Kommentar zum Neuen Testament aus Talmud und Midrasch* (München: Beck, 1922–61). Vol. 1 dealt with Matthais (1922) and vol. 2 with Markus, Lucas, etc. (1924). While in the *The Synoptic Gospels* Montefiore had concentrated upon Mark primarily, followed by Matthew and Luke, in *Rabbinic Literature and Gospel Teachings* the longest treatment was reserved for Matthew. Montefiore held Mark to be more historical than Matthew and Luke, and Matthew to be more akin to the Talmudic literature.

the Gospels without reference to mainstream scholarship, with the result that their research, as Montefiore complained, was fractional and atomistic,[16] and that they often naïvely attributed to the Gospels a historical reliability that Christian scholars did not. One might have expected Graetz, for example, to have assimilated Strauss' *Life of Jesus,* which had questioned the historical reliability of the Gospel texts, or Klausner to have taken seriously the scepticism of contemporary Christian researchers, especially Bultmann's Form-criticism.[17] But this was not the case, due to over-confidence in their own specialized knowledge and a suspicion of Christian bias in mainstream research.[18] Until after the Second World War, Montefiore was the clearest exception to this general rule and was entirely conversant with the burgeoning literature on the subject.[19] In terms of his own position within the international biblical-critical fraternity, he was a rationalist, consciously locating himself between German radicalism and British conservatism, and regarding the Gospel texts as reliable enough to make the reconstruction of the life of Jesus feasible. In response to Jewish criticism, he admitted to a certain reliance upon Christian scholarship but he always reserved the right to disagree with them and to correct them when he felt it necessary.[20]

The vast majority of Jews drawn to the study of Jesus have been Reform or Liberal, and there are doubtless many reasons for this. The tendency among reform minded Jews to move away from the idea of Judaism as a nation, and to view it rather as a religious fellowship, was very much related to the new emphasis on ethics as central to their religious message. In this context, Jesus and his ethical teaching appeared interesting and relevant. Also, for those who were critical of Orthodox Jewish ritual, Jesus represented the struggle of free spirituality against ceremonialism in an earlier era. Yet Jewish reclamations of Jesus were driven by more than simply the intellectual concern to recover an earlier

16 Cited in Sandmel, *We Jews and Jesus,* 90.

17 David F. Strauss, *Das leben Jesu* (Tübingen: C.F. Osiander, 1835). According to Sandmel, Klausner's approach to the Gospels exhibited "a unique capacity to have reviewed much of the Gospel scholarship and to have remained immune from reflecting it." He dismissed Klausner as an "amateur Talmudist" who applied "dilettantism rather whimsically to the Gospel passages." Sandmel, *We Jews and Jesus,* 92, 93.

18 For instance, Gerald Friedlander accused Montefiore of an inordinate reliance on Christian scholars. Gerald Friedlander, *The Jewish Sources of the Sermon on the Mount* (London: Routledge, 1911) 52. Ahad Ha-Am was also suspicious. He wrote, "What is needed is not the 'scientific accuracy' of the Christian commentators . . . who set out with the preconceived idea that the teaching of the Gospels is superior to that of Judaism and use their 'science' merely to find details in support of their general belief." Ahad Ha-Am, "Judaism and the Gospels," reprinted in *American Hebrew Journal* 87 (1910) 513–15 from *The Jewish Review.*

19 Sandmel suggests that "a student wishing to get a good summary of Gospel scholarship in the early 1900's can quite possibly get this better from Montefiore than from anywhere else." Sandmel, *We Jews and Jesus,* 89.

20 Montefiore, *Synoptic Gospels,* 1:xxii.

Jewish ethical tradition, or the satisfaction of discovering an ancient champion of an ethically centered Judaism. Since the nineteenth-century onwards, a stock argument among Jewish writers including Luzzatto, Salvador, Graetz, and Geiger had been that Jesus' ethical teaching had been wholly Jewish, of one sort or another, and had included nothing new or original. Such treatments provided a platform from which to launch attacks on Christianity, in that they stressed the Jewishness and therefore the humanity of Jesus in contradiction to the traditional Christological view of Jesus. They were also a reminder that the Christian morality championed by Western civilization could arguably be regarded as imitative and derivative of Jewish religious thought. Geiger, in particular, spent considerable time and effort to this end, as Susannah Heschel has recently shown in *Abraham Geiger and the Jewish Jesus.* The traditional Christian view of the Church as the fulfilment of a handicapped Judaism was a myth Geiger was determined to overthrow. Instead, he suggested that Christianity should be regarded as a tangential off-shoot from Judaism, and that the current search for the faith *of* Jesus by Protestant scholars would only confirm that this ideal faith was essentially Jewish in nature.[21] In England, Gerald Friedlander's *The Jewish Sources of the Sermon on the Mount* was a polemical work that emphasized the Jewishness of much of Jesus' teaching.[22] Despite the fact that it was "of little practical value for everyday life," Friedlander was quick to point out that "all the teaching in the Sermon [on the Mount] . . . is in harmony with the spirit of Judaism."[23] And in his anti-Christian apology, *Wesen des Judentums,* Baeck claimed that a full appreciation of the greatness of Jesus was only possible for a Jew, since "a man like him could have grown only in the soil of Judaism, only there and nowhere else."[24] This way of confronting Christian claims (regarding Jesus and Judaism) by describing him as essentially Jewish, rather than essentially alien and heretical, was new. It can at least be partially explained by the reaction to Christian critique and the underlying psychological need to justify Judaism in the eyes of the Western Christian world. If, as the Orthodox Paul Goodman put it, Jesus had "added no important original element to the religious and moral assets which had been accumulated by the Jewish prophets and sages,"[25] then what justification had Christians for condemning Jewish teaching as inferior to

21 Susannah Heschel, *Abraham Geiger and the Jewish Jesus* (Chicago & London: Univ. of Chicago Press, 1998) 14.

22 Gerald Friedlander, *The Jewish Sources of the Sermon on the Mount* (London: Routledge, 1911).

23 Friedlander, *Jewish Sources,* 262–63. Friedlander believed that practically all the genuine teaching of Jesus had been apocalyptic in character. Despite the fact that it must have been *Jewish* apocalypticism, he maintained that it was opposed to the best of Jewish thought and sentiment. Ibid., 3.

24 Leo Baeck, *Wesen des Judentums* (Berlin: Nathansen und Lamm, 1905). Leo Baeck, *The Essence of Judaism,* trans. Victor Grubwieser and Leonard Pearl (London: Macmillan, 1936) cited in Schalom Ben-Chorin, "The Image of Jesus in Modern Judaism," *JES* 11 (1974) 408.

25 Paul Goodman, *The Synagogue and the Church* (New York: Routledge, 1908) 233.

Jesus' teaching? Maintaining Jesus' Jewishness had become a way of justifying Judaism to Christians. Such a view is supported by Schwartz's observation that no non-western Jew has written extensively on Jesus, since the concern to justify Judaism was of no importance, relatively speaking, to Jews outside the West.[26]

Nevertheless, for Jews interested in studying Jesus – even for those who wanted to use Jesus in this particular way – it was difficult to ignore those aspects of his teaching and behavior which had traditionally been regarded as "un-Jewish." There was therefore something of a tension between the desire to hold up Jesus to justify Judaism to a surrounding Christian world, and the often acutely felt obligation to distance Judaism from certain elements of his thought.[27] For example, almost in spite of himself Paul Goodman had picked up on the idea of non-resistance as something that had no obvious parallel to "the teaching of the Jewish schools."[28] Israel Abrahams had been keen to draw attention to the similarities between Jesus' style of teaching and that of the Pharisees, including the use of parables and style of prayer, yet he was also sensitive to certain nuanced differences, such as the greater inclination of Jesus to seek out sinners and the idea of forgiveness as presented in the Lord's Prayer.[29] More recently, the differences noted by Geza Vermes, while also differences of emphasis rather than of content, included Jesus' tendency to overemphasize the ethical as compared to the ritual and to underestimate those needs of society that are met by organized religion.[30] The tension was exacerbated by the very real risk of being perceived as overly sympathetic towards "that man" and thereby provoking a backlash from traditionalists who regarded anyone who was even faintly interested in Jesus as traitors to Judaism, be they Liberal or Orthodox. It comes as no surprise to discover that Montefiore's positive assessment of Jesus was denounced for demonstrating "an anti-Jewish tendency" and led to accusations implying his being a crypto-Christian.[31] But other less positive works were

26 G. David Schwartz, "Explorations and Responses: Is There a Jewish Reclamation of Jesus?" *JES* 24 (1987) 107. Of course, anti-Semitism in the East was an important factor and also helps explain the relative silence.

27 Jacob Agus has observed, "Jewish historians are generally torn between the desire to prove the Jewishness of Jesus and the opposing wish to "justify" the rejection of his person and message." Jacob Agus, "Claude Montefiore and Liberal Judaism," *CJud* 13 (1959) 21.

28 Goodman, *Synagogue and Church*, 271–2.

29 Israel Abrahams, *Studies in Pharisaism and the Gospels* (2d ed., 2 vol.; Cambridge: Cambridge Univ. Press, 1923) 58–59, 90, 91, 97–98.

30 Geza Vermes, "Jesus the Jew," in James H. Charlesworth, ed., *Jesus' Jewishness; Exploring the Place of Jesus in Early Judaism* (New York: Crossroad Publishing, 1991) 118.

31 Michael Friedlander, "Notes in Reply to My Critic," *JQR* 3 (1892) 437. In his critique of Montefiore's *Synoptic Gospels* (1909), Ahad Ha-Am criticized Montefiore's Liberal Jewish aim "to change the *spirit* of Judaism . . . and to bring it as closely as possible into accord with the Christian ideas of the non-Jewish community." He also commented, "No true Jew will be able to feel any fondness for the doctrine of the Gospels [in contrast to Montefiore]." Ahad Ha-Am, "Judaism and the Gospels," 513, 515.

also regarded as betrayals of Judaism. The Zionist Orthodox Jew and disciple of Ahad Ha-Am, Joseph Klausner, saw his *Jesus of Nazareth* attacked as "a trucking and kow-towing to the Christian religion, and an assertion of great affection for the foggy figure of its founder, a denial of the healthy sense of our saintly forefathers."[32]

In distancing themselves from Jesus' distinctive thought, Jewish writers rarely, if ever, contemplated the idea that Jesus' distinctive or allegedly non-Jewish teachings might be beneficial contributions. Rather, they were viewed as mistakes which could be used as foils to demonstrate the superiority of the writer's own view of Judaism. In this sense, it is true to say, as Jacob Agus does, that for many Jewish scholars, Jesus was made to stand for whatever it was that the particular scholar repudiated and excoriated.[33] Very few Jews have focussed upon those elements of Jesus and his teachings which distinguished him from his contemporaries unless, for polemical reasons, they intended to criticize him and thus, by association, Christianity. Klausner, whose *Jesus of Nazareth* illustrates the background dynamics well, provides an interesting example. He certainly wrote admiringly of Jesus and, from a cursory reading, appeared to hold Jesus' originality in high regard in sharp contrast with the majority of Jewish writers.

> In [Jesus'] ethical code there is a sublimity, a distinctiveness and originality in form unparalleled in any other Hebrew ethical code; neither is there any parallel to the remarkable art of his parables. The shrewdness and sharpness of his proverbs and his forceful epigrams serve, in an exceptional degree, to make ethical ideas a popular possession. If ever the day should come and this ethical code be stripped of its wrappings of miracles and mysticism, the Book of the Ethics of Jesus will be one of the choicest treasures in the literature of Israel for all time.[34]

Nevertheless, Klausner's response to Jesus' originality was more complex than this passage indicates and must be weighed against his belief that although Jesus

32 Joseph Klausner, *Jesus of Nazareth; His Life, Times, and Teaching* (New York: Macmillan, 1929). Aaron Kaminka in Ha-Toren (New York: May 1922), cited in Herbert Danby, *The Jew and Christianity; Some Phases, Ancient and Modern, of the Jewish Attitude Towards Christianity* (London: Sheldon Press, 1927)102–3. The fact that Klausner was a fervent Zionist and a disciple of Ahad Ha-Am made no difference to those who condemned him.

33 Agus, "Claude Montefiore and Liberal Judaism," 7. Agus is too simplistic in his analysis of the Jewish treatment of Jesus, however, when he writes, "As it was the tendency of Christian historians and philosophers to see in Jesus an ideal representation of their own ideals, so it became the practice among Jewish scholars to represent Jesus as the protagonist of the forces that they opposed." He neglects to take into account the Jewish desire to justify Judaism in the face of Christian criticism and the utilization of Jesus for that purpose.

34 Klausner, *Jesus of Nazareth*, 414.

had obviously not been a Christian during his lifetime, he had become one (or should be regarded as one), for his history and his teaching had severed him from Judaism.[35] When it came to concrete examples of Jesus' distinctive teaching, Klausner could not help viewing them as, ultimately, impractical. Thus Jesus' instruction to "Give unto Caesar that which is Caesar's and unto God that which is God's" effectively undermined the authority of the civil authorities; his commands to "resist not evil," to "swear not at all" and to share all one's possessions with the poor, were simply not practical in society; by forbidding divorce he did not solve family difficulties; and in his recommendation to be like "the lilies of the field which toil not" he revealed his lack of interest in economic and political achievements.[36] Klausner went on to explain Jesus' failure in the eyes of Judaism in terms of his being *too* Jewish. But more to the point, he criticized the teachings as "un-Jewish" in the light of his own Zionist, nationalistic view of Judaism.

> In all this Jesus is the most Jewish of Jews, more Jewish than Simeon ben Shetah, more Jewish even than Hillel. Yet nothing is more dangerous to national Judaism than this *exaggerated* Judaism; it is the ruin of national culture, the national state, and national life . . . This teaching Jesus had imbibed from the breast of Prophetic and, to a certain extent, Pharisaic Judaism; yet it became, on one hand, the negation of everything that had vitalised Judaism; and, on the other hand, it brought Judaism to such an extreme that it became, in a sense, *non-Judaism*.[37]

In other words, Klausner's criticism of Jesus' distinctive teachings was rooted in his own deeply felt, essentially nationalistic view of Judaism. While for other writers, especially reform minded Jews, the nationalistic element was not as important, their criticisms, too, were shaped by their own particular views of Judaism.

Since the early nineteenth-century, then, it has not been uncommon for Jews (mainly among Reform and Liberal circles) to point to Jesus as exemplifying many of the best aspects of an ideal Judaism, so as to demonstrate that so-called Christian virtues were not foreign to modern Judaism. At the same time, while Jesus' alleged differences with Judaism ceased to be as fiercely condemned as they had been in older treatments, such differences continued to be used as foils

35 Cited in Sandmel, *We Jews and Jesus*, 91. Such a view, of course, helps explain Klausner's popularity with Christian scholars, for his criticism effectively acknowledged the usual Christian interpretation of Jesus' life and teachings. As Montefiore pointed out, this was in contrast to scholars such as Eisler, whose view of Jesus as a political rebel directly disputed the facts as Christians saw them. C. G. Montefiore, "Dr. Robert Eisler on the Beginnings of Christianity," *HibJ* 30 (1931–32) 300.

36 Klausner, *Jesus of Nazareth*, 373–74.

37 Ibid., 374, 376.

by which to demonstrate the superiority of the writer's own view of Judaism. One result of the enormous pressure upon Jewish writers to find the teachings of Jesus inferior to those of Judaism was that all too often, even when they agreed with Jesus' teaching, the discussion degenerated into an apologetic argument of mere chronological priority (the implication being that whoever said it first was superior). Sandmel warned that the question of originality was all too often a "misguided one" for this very reason.[38]

Montefiore's View of Jesus' Originality

Montefiore, too, pointed to those teachings that Jesus shared with Judaism as illustrative of its high development and sophistication. But when it came to questions of Jesus' priority, he readily admitted that in many instances Jesus' teachings had chronological priority over those of the Rabbis. The issue was of little interest to him, though, as he explained in "The Originality of Jesus,"[39]

> For if the later rabbinic parallels are native developments . . . then the originality of Jesus, though not to be neglected, is yet, to my mind, a secondary, and comparatively unimportant, originality. A good deal, moreover, depends upon the question whether a doctrine is central and essential for Jesus, but unusual or exceptional for the Rabbis or in the Old Testament. If the latter, then a high degree of originality belongs to Jesus, even though one or two good parallels can be adduced.[40]

It was this higher kind of difference between Jesus' teaching and that of Jewish tradition which interested him most. In contrast to most of his fellow Jewish scholars, who used Jesus' perceived differences as foils for their own ideas of Judaism, Montefiore approached such differences in an extremely innovative way and with a distinct set of assumptions. He was not only prepared to accept the originality of some of Jesus' thought but often praised it, and even suggested that Judaism could learn from it. In this context, it is important to understand that "originality" meant more to him than merely "fresh expression of universal truths" (that is, *Jewish* universal truths) as some have suggested.[41] In "The Originality of Jesus," Montefiore defined his use of the term "original" as *relative*, that is, original in comparison with the ideals and the teaching of Jesus' Jewish contemporaries. He readily admitted that he did not mean absolute originality, and he also

38 Sandmel, *We Jews and Jesus*, 109.

39 C. G. Montefiore, "The Originality of Jesus," *HibJ* 28 (1929) 98–111.

40 Montefiore, "The Originality of Jesus," 99.

41 Edward Kessler, *An English Jew; The Life and Writings of Claude Montefiore* (London: Vallentine, Mitchell & Co Ltd, 1989) 167.

denied that by "originality" he automatically implied excellence.[42] Even so, Jesus' teachings were often for Montefiore, "off the main Jewish line of development." Pursuing as he was a radical reform of Judaism, he could not help but hold Jesus in high regard when he saw many of his own anti-Orthodox concerns mirrored in the Gospel narratives. Almost unconsciously he used Jesus — and Jesus' "un-Jewish" idiosyncrasies — as a vehicle for expressing his own vision of Judaism. This was possible for Montefiore in a way that it did not seem to be for other Jewish thinkers, even other reformers, primarily because of his particular background which had freed him of the traditional anti-Christian bias and the related fear of betraying Judaism by studying Jesus.[43]

In emphasizing Jesus' uniqueness, Montefiore felt that part of "the distinction and the original greatness of the teacher of Nazareth" had been his active desire to redeem and convert marginalized groups in society, including women and "sinners."[44] Jesus had been not only "a collective prophet" but also "the individualist prophet — the seeker of souls." This seeking out of the sinner with Jesus' methods and intensity was, in Montefiore's opinion, something new in the religious history of Israel, especially when it was connected to the idea of redemption.[45] One of the reasons why he was attracted to this aspect of Jesus' ministry was that it echoed his own strong desire to reach out and rescue the Jewish masses disenchanted by traditional Judaism — one of the driving forces behind the establishment of the Liberal Jewish movement. It also paralleled his own social concerns, as reflected in the types of charitable work with which he was associated, including the Jewish Association for the Protection of Women and Children and Basil Henriques' social-educational program for Jewish boys in the East End of London.

In line with the Liberal trend to "spiritualize" Judaism, Montefiore had worked hard to distance Judaism from the ritualized, legalistic religion of Christian critique. Unconcerned about questions of priority, he identified with those aspects of Jesus' teaching which helped to accomplish this. With regard to God's grace and the concept of His rewards as gifts, he was inclined to view Jesus' attitude that man has no claim upon God as "comparatively new and original," in spite of the parallels that existed in the rabbinic literature. Similarly, although teachings

42 Montefiore, "The Originality of Jesus," 98–99, 107. Once again distancing himself from "current Jewish criticism," he nevertheless recognized "a degree of originality . . . [and] of excellence" in the paradoxes of the Sermon on the Mount.

43 Martin Buber, *Two Types of Faith,* trans. N. P. Goldhawk (London: Routledge, 1951) presented Jesus' faith as the highest and most classic expression of Jewish *emunah.* Thus, Buber, too, used Jesus as a vehicle to express his own vision of Judaism. The essential difference was that Montefiore utilized various elements in Jesus' teaching that he readily admitted were original or non-Jewish.

44 Montefiore, "The Originality of Jesus," 38, 44.

45 Ibid., 55, 57–58. This had also been one of Israel Abrahams' observations.

on self-denial had not been unknown before Jesus' time, Montefiore felt that the vivid expression of the ideal in the Gospels, together with its teaching regarding the renunciation and abandonment of the earthly for the heavenly, of this world for the next, were "surely new and original contributions to the history of religion and morality." Regarding what he described as "the heroic element in the paradoxes of the sermon on the mount," Montefiore freely admitted that they could never be the laws of a state. Nevertheless, they remained "the principles of the hero, which heroes every now and then can put in practice, and which, as ideals and as spirit, are still fresh and valid and true."[46] It was exactly this sort of comment that provoked men like Ahad Ha-Am to question the authenticity of Montefiore's Jewishness. And in fact, Montefiore's championing of such stoic ideals as renouncement and self-denial had been more due to the influence of nineteenth-century hellenized or anglicanized Christianity than they had been due to the influence of Jewish thought or even that of the first-century Gospel texts.[47] Moreover, it was his adoption of apparently non-Jewish value-judgements and attitudes that explains his readiness (in contrast to many of his co-religionists) to attribute such teachings to Jesus as "new and original" and to regard them as worthy of emulation rather than of disparagement. In some cases he went even further and used such perceived differences in defending his own Liberal Jewish theology, for instance, with regard to Jesus' view of the Law.

A common argument since modern Jews first became involved in what has been described as the reclamation of Jesus, is that he had been an observant Jew and that he had not challenged Torah. Montefiore, however, suggested that Jesus *had* abrogated the Law in principle without intending to do so. (On this matter he was prepared to accept Jesus' confrontations with the Pharisees as historical fact). Strictly speaking, he was not alone in this. Joseph Klausner also argued that while Jesus had not actually set aside the ceremonial laws, he had nevertheless so devalued them that it was later possible for Paul, the originator of Christianity, to break away from Judaism in Jesus' name.[48] Where Montefiore differed from Klausner was that, firstly, he could not help projecting onto Jesus some of his own liberal musings and thus a sense of principle and intention; and secondly, that he regarded this development as a good thing. Thus, while Jesus had never disputed theoretically the belief that the Law was "divine," there had been

46 Ibid., 97–98, 105, 107.

47 Jesus' declaration that true rule is true service was, in Montefiore's mind, the most original feature of his conception of the messiah, and yet this idea of kingship echoed Platonic rather than Jewish thought. Ibid., 131, 136. "His [Jesus'] idea of kingship was that of Plato; he only is the king whose life is given for his people. Kingship is service." Ibid., 106–7.

48 Klausner, *Jesus of Nazareth*, 369. E. P. Sanders points out that this theory did not explain why James and Peter had failed to reach the same conclusions when looking at Jesus' words and deeds. E. P. Sanders, *Jesus and Judaism* (London: S.C.M. Press, 1985) 53.

for the teacher of Nazareth a higher authority, which Montefiore described as "the inspiration of his thoughts and words as the Divine Spirit seemed to suggest them to his mind." He found evidence for this in several of Jesus' confrontations with the Pharisees. For example, on the question of rabbinic regulations regarding the washing of hands Montefiore understood Jesus to have argued that "things" could not defile "persons" and that one's spiritual personality could only be spiritually defiled. "Logically and consistently, the right was on the side of the Rabbis," he wrote, "[but] universally, ultimately, and religiously, the right was on the side of Jesus."[49] It goes without saying that such an assessment was not common among Jewish writers. Here we see that what he regarded as a difference between Jesus' thought and that of his contemporaries, could be utilized as an opportunity to expound his own Liberal Jewish views.

Overall, it is not difficult to see what drew Montefiore to Jesus. Walter Jacob was not too far off the mark when he suggested that the Jesus portrayed in *The Synoptic Gospels* and in *The Religious Teaching of Jesus* was "an idealized Montefiore in miniature."[50] For Montefiore, as for many of the other Jewish writers, most of Jesus' teaching appeared to be rooted well within the confines of first-century Jewish thought.[51] But when Jesus' teachings appeared to stray outside these perimeters Montefiore was often sympathetic, openly expressing his support, because he felt a sort of kinship and like-mindedness. It was easy for him to eulogize the "heroic element," the "largeness of views," and the "grand simplicity" which he felt characterized Jesus' ministry,[52] because, not to put too fine a point upon it, he saw these very same attributes as characteristic of his own Liberal Jewish struggle. Somewhat paradoxically, praising Jesus' allegedly "un-Jewish" teachings thus gave him the opportunity to justify similar actions and beliefs of his own to his Jewish critics. Montefiore explicitly argued for adopting teachings which he himself regarded as "un-Jewish" but which he believed were necessary for the improvement and development of Judaism. In this Montefiore appears unique among Jewish thinkers for whom the identification of Jesus' teachings as "un-Jewish" was only ever a negative thing. Montefiore's unusual utilization of Jesus is paralleled to a lesser extent in his approach to the apostle Paul.

49 C.G. Montefiore, *Some Elements in the Religious Teaching of Jesus* (London: Macmillan, 1910) 46–47, 49–50.

50 C.G. Montefiore, *Some Elements in the Religious Teaching of Jesus* (London: Macmillan, 1910). Walter Jacob, *Christianity Through Jewish Eyes; The Quest for Common Ground* (Cincinnati: Hebrew Union College Press, 1974) 103.

51 For example, Montefiore agreed with many other Jewish writers that the concept of the Kingdom and the coming Judgement, while central to Jesus' world-view and emphasized in his teachings, was essentially a Jewish doctrine. He held that it was not created by Jesus or even considerably changed by him. Montefiore, *The Religious Teaching of Jesus*, 60.

52 Montefiore, *Liberal Judaism and Hellenism*, 103.

The Silence of Jews with Regard to Paul

Until relatively recent times Jews have very rarely written about Paul. There are a few possible exceptions in the rabbinic literature. The Christian scholar Kittel suggested that it was Paul who was described in 'Abot 3:12 as one who

> profanes the Hallowed Things and despises the set feasts and puts his fellow to shame publicly and makes void the covenant of Abraham our father, and discloses meanings in the Law which are not according to the Halakhah.[53]

Later Klausner argued that it was Paul who was referred to in Shabbath 30b, which speaks of a pupil of Gamaliel who "went wrong" and who "interpreted the Torah in a perverse manner."[54] And Baeck accepted the alleged reference to Paul in Ruth Rabbah, Petikha 3, "This man . . . made himself strange to the circumcision and the commandments."[55] But even allowing for these few tenuous possibilities, the silence of ancient Jewish writers on this subject is striking. In an essay entitled "Paul in Modern Jewish Thought," Donald Hagner has argued that there were two main reasons for this. Firstly, Paul's missionary success made him a dangerous opponent for the Rabbis; while his theology was patently wrong, they felt that the best way to deal with his threat was to ignore him and give him as little publicity as possible. Secondly, and more importantly, Jews had lived within Christendom from the fourth century until the nineteenth-century Emancipation, under oppression; their silence was simply a reflection of their awareness of the political danger of engaging with Jesus, Paul or Christianity. For Hagner, "the new climate of freedom produced by the gradual acceptance of Jews into European society" brought to an end the centuries of silence.[56]

Of course Hagner is right in his observation that more Jews have written about Paul and engaged his teaching since Emancipation than before, and that a very important factor in this was the diminished threat of recrimination from their Christian neighbors. With the general increase in their familiarity with the surrounding Christian world, the fear of contamination from the heretical Apostle would also have diminished, and a greater number of Jews would have read his writings. It seems logical to conclude that with the dissolution of the two main fears or causes for the Jewish silence came an end to the silence. One

53 G. Kittel, "Paulus im Talmud" in *Rabbinica, Arbeiten zur Religionsgeschichte des Urchristentums* 1, 3 (Leipzig: 1920) cited in Donald A. Hagner, "Paul in Modern Thought," in Donald A. Hagner and M. J. Harris, eds., *Pauline Studies; Essays Presented to F. F. Bruce* (Exeter: Paternoster Press, 1980) 160.

54 Joseph Klausner, *From Jesus to Paul,* trans. W. F. Stinespring (London: Allen & Unwin, 1943) 310–11.

55 A commentary on Proverbs 21:8, which refers to the "man" whose "way is forward and strange." Leo Baeck, "The Faith of Paul," *JJS* 3 (1952) 109.

56 Donald A. Hagner, "Paul in Modern Thought," 143–65.

might also have expected that for those who were coming to regard Jesus as faithful to Judaism, Paul would have drawn increasing attention as the man responsible for the movement of early Christianity away from its Jewish roots. In fact, one is struck by the very small number of Jewish writers who have produced a dedicated study on Paul, in comparison with those who have written about Jesus.[57] When the fact that a number of the authors produced only essays or articles rather than full-length works is taken into account, the implication that the tide has turned and the claim that in modern times Jewish scholars have "no small fascination for Saul of Tarsus" seems less convincing.[58] It appears that for the vast majority of them, the Apostle to the Gentiles was of little or no interest.

Of the few Jewish writers who did consider the Apostle to the Gentiles, each had his own agenda. For many of them, especially the earlier ones, their concern was to compare and contrast Pauline with Jewish thought for polemical purposes. Examples of those whose treatment was colored by a negative appraisal of Paul include Kaufmann Kohler, Martin Buber, Leo Baeck and Hyam Maccoby. Later, others were determined to present a non-partisan historical study that sought simply to comprehend Paul and not to comment on his merit one way or the other. Examples include Joseph Klausner, Samuel Sandmel, Hugh Schonfield, Hans Joachim Schoeps, David Flusser, Pinchas Lapide, Nancy Fuchs-Kreimer, Alan Segal and Daniel Boyarin. Of the remainder, Heinrich Graetz's treatment of Paul in his *History* was not overtly polemical, although the anti-Christian undercurrent of the work should not be forgotten. The same could be said of Isaac Meyer Wise, who seemed to admire Paul for the mark he left upon the world in spite of viewing him ultimately as a mystical, heretical Jew. Claude Montefiore found himself torn in two directions and genuinely attempted both a fair-handed New Testament analysis of Paul and a (generally negative) evaluation of his religious teachings. Richard L. Rubinstein, who approached Paul primarily from the perspective of Freudian psychology in attempting to demonstrate that Pauline insights had anticipated Freud, lies somewhat outside this analysis.[59]

57 Hagner's list includes Heinrich Graetz, C. G. Montefiore, Kaufmann Kohler, Joseph Klausner, Martin Buber, Leo Baeck, Samuel Sandmel, Hans Joachim Schoeps, Schalom Ben-Chorin and Richard L. Rubinstein. Ibid., 144, 145. Other treatments include Isaac M. Wise, Hugh Schonfield, David Flusser, Pinchas Lapide, Hyam Maccoby, Nancy Fuchs-Kreimer, Alan Segal and Daniel Boyarin.

58 Ibid., 144.

59 Kaufmann Kohler, "Saul of Tarsus," in Isadore Singer, ed., *Jewish Encyclopaedia* 11 (New York: Funk and Wagnalls Company, 1901–16) 79–87. Martin Buber, *Zwei Glaubensweisen* (Zürich: Manesse Verlag, 1950). English version: Martin Buber, *Two Types of Faith*, trans. N. P. Goldhawk (London: Routledge, 1951). Leo Baeck, "The Faith of Paul," *JJS* 3 (1952) 93–110. Hyam Maccoby, *The Mythmaker; Paul and the Invention of Christianity* (London: Weidenfeld and Nicolson, 1986). Joseph Klausner, *Mi-Yeshu 'ad Paulus* (Tel Aviv: Mada', 1939). English version: Joseph Klausner, *From Jesus to Paul*, trans. W. F. Stinespring (London: Allen & Unwin, 1943). Samuel Sandmel, *The Genius of Paul; a Study in History* (New York: Farrar, Straus & Cudahy, 1958). Hugh J. Schonfield, *The Jew of Tarsus; an Unorthodox*

The small number of Jewish writers on Paul demands an explanation. It is not a satisfactory answer to say that Jewish writers simply regarded Paul as less relevant than Jesus for Judaism and that their relatively small written output reflected their lack of interest. Pauline thought and Christian interpretations of it have significantly shaped the Church, especially the Protestant Church, with which Judaism has struggled. An understanding of Paul is thus essential in understanding Christianity and one would expect a good deal more Jewish study of Paul, especially from those concerned with Jewish-Christian relations. One possible reason for the Jewish silence was that, as far as the vast majority were concerned, the Jewish position regarding the apostate Paul was quite clear – what need was there for a re-examination? For centuries the Jewish understanding of Paul had been hindered by the same clumsy reading of the apostle of which Christians were similarly guilty, which over-emphasized his apparent anti-Jewishness and his contrast of faith versus works. To a certain extent this traditional presupposition lies behind the works of several of the Jewish writers, especially Buber and Kohler. Another reason for the continued silence was the Christo-centricism of the apostle's writings. Unlike Jesus whose teachings could, in the main, be easily reconciled with Judaism, Paul's fixation upon a supernatural messiah could not easily be overlooked in favor of his more "Jewish" teachings.[60] As a consequence, there was very little reason to try to reclaim

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Portrait of Paul (London: MacDonald & Co., 1946). Hans Joachim Schoeps, *Paulus; die Theologie des Apostels im Lichte der jüdischen Religionsgeschichte* (Tübingen: Mohr Siebeck, 1959). English version: Hans Joachim Schoeps, *Paul; the Apostle in the Light of Jewish Religious History*, trans. Harold Knight (Philadelphia: Westminster, 1961). David Flusser, "Paul of Tarsus," in Cecil Roth, ed., *Encyclopaedia Judaica* (Jerusalem: Keter Publishing House, 1971) 190–91. Pinchas Lapide and Peter Stuhlmacher, *Paul, Rabbi and Apostle*, trans. Lawrence W. Denef (German original 1981; Minneapolis: Augsburg Publishing House, 1984). Nancy Fuchs-Kreimer, "The 'Essential Heresy': Paul's View of the Law According to Jewish Writers, 1886–1986" (Diss. Temple Univ., 1990; Ann Arbor, Mich.: UMI, 1991). Alan F. Segal, *Paul the Convert; the Apostolate and Apostasy of Saul the Pharisee* (New Haven and London: Yale Univ. Press, 1992). Daniel Boyarin, *A Radical Jew; Paul and the Politics of Identity* (Berkeley: Univ. of California Press, 1994). Heinrich Graetz, *History of the Jews; From the Earliest Times to the Present Day*, ed. and trans. by Bella Lowy (vol. 2; London: Jewish Chronicle, 1901). Isaac Meyer Wise, "Paul and the Mystics," in Isaac Meyer Wise, *Three Lectures on the Origin of Christianity* (Cincinnati: Bloch & Co, 1883). C. G. Montefiore wrote two articles and one book: C. G. Montefiore, "First Impressions of St. Paul," *JQR* 6(1894)428–74; C. G. Montefiore, "Rabbinic Judaism and the Epistles of St. Paul," *JQR* 13(1901)161–217; and C. G. Montefiore, *Judaism and St. Paul; Two Essays* (London: Max Goschen Ltd, 1914). Richard L. Rubinstein, *My Brother Paul* (New York: Harper & Row, 1972).

60 Leo Baeck expresses this well. "The first thing we see is that there is a centre about which everything turns. The point on which everything depends, round which everything revolved in Paul's life, and the point at which his faith became his life was the vision which overpowered him when one day he saw the Messiah and heard his voice. This vision immediately became, and remained, the central fact of Paul's life . . . One must start from it in order to understand Paul, his personality and his confession." Baeck, "The Faith of Paul," 94.

Paul in the way that modern Jews had attempted to reclaim Jesus. Overall, there was little or no incentive for Jews to study Paul, other than to refute Christian views of Judaism derived from Paul's misrepresentation of the Jewish Law.

Montefiore's Approach to Paul

Montefiore was interested in Paul because: a. his Liberal Jewish philosophy primed him to attempt to salvage what he could from any religious writing, and especially from writings whose author he had described on record as a religious genius; and b. because he was fascinated by the question of how to explain Paul's view of Judaism if one was to start from the assumption that Paul was sincere in his critique. Neither of these concerns could be described as character-istic of previous Jewish approaches.

Montefiore dedicated one book and two long articles to dealing with Paul. The book *Judaism and St Paul* incorporated the previous articles; the first half contained his contribution to Pauline scholarship, while the second half outlined those elements of Paul's thought which, from a Liberal Jewish point of view, were of lasting religious value.[61] In considering first his scholarship, it is worth noting that Montefiore has had a considerable impact upon Pauline studies — two of the most important post-war works on Pauline thought, by W. D. Davies and E. P. Sanders, have treated the questions raised by Montefiore at considerable length.[62]

The Jewish dilemma had been articulated by Solomon Schecter in 1909, when he wrote,

> Either the theology of the Rabbis must be wrong, its conception of God debasing, its leading motives materialistic and coarse, and its teachings lacking in enthusiasm and spirituality, or the Apostle to the Gentiles is quite unintelligible.[63]

In common with Jewish writers before him, Montefiore had difficulty in accepting that a rabbinic Jew could have produced the theory of the Law found in Romans, have emphasized mysticism and pessimism to such a degree, or have

61 C. G. Montefiore, *Judaism and St. Paul; Two Essays* (London: Max Goschen Ltd, 1914).

62 E. P. Sanders, *Paul and Palestinian Judaism* (London: S.C.M. Press, 1977) and W. D. Davies, *Paul and Rabbinic Judaism* (London: S.P.C.K., 1955). In particular, Sanders has dominated Pauline studies over the last two decades. His understanding of Judaism in terms of "covenantal nominism" came about largely as a response to the critique of Montefiore (and others) of the Lutheran-Protestant view of Judaism, as he explains in his introduction. It is worth noting that Sanders' new perspective, namely, that the rabbinic discussions *presupposed* the covenant and were largely directed toward the question of how to fulfil the covenantal obligations rather than how to ensure salvation, is not disputed by even his fiercest critic, Jacob Neusner (who takes exception only to his methodology).

63 Solomon Schechter, *Some Aspects of Rabbinic Theology* (London: A. & C. Black, 1909) 18.

ignored the rabbinic teachings on repentance and God's forgiveness. If Paul had known Rabbinic Judaism, then, as Montefiore put it,

> many of the salient doctrines of the great Epistles could never have evolved. They would have been so very unnecessary, and, because unnecessary, they could not have been thought out.[64]

But in contrast to those Jews who had written before him, Montefiore accepted Paul's criticisms as accurately representing *the Judaism with which the apostle was familiar.* He had therefore come to believe that the only fair and reasonable explanation of Paul's apparent ignorance was that Paul had not known Rabbinic Judaism, and that he had been influenced by non-Jewish religious conceptions and practices. By piecing together what Paul had to say about his pre-conversion religion, Montefiore concluded that the apostle's experience had been of a poorer, inferior strand of Judaism, which he described as Hellenistic or Diaspora Judaism. In his opinion, it had been

> more systematic, and perhaps a little more philosophic and less child-like, but possibly for those very reasons it was less intimate, warm, joyous and comforting. Its God was more distant and less loving . . . The early religion of Paul was more sombre and gloomy than Rabbinic Judaism; the world was a more miserable and God-forsaken place; there were fewer simple joys and happinesses . . . The outlook was darker: man could be, and was, less good . . . God was not constantly helping and forgiving.[65]

Thus Montefiore evaded Schechter's dilemma that Paul's criticisms of Rabbinic Judaism had to be either essentially accurate, or totally misrepresentative, by arguing that the pseudo-Judaism attacked by Paul had probably been a transcendental, philosophic form of Judaism brought about from exposure to Hellenism.

For the purposes of this article, it is irrelevant whether or not Montefiore was correct regarding the nature of Paul's religious background, although in point of fact it was an overly simplistic analysis.[66] What is significant is that he did not attempt a straightforward defense of Judaism against Pauline criticism

64 Montefiore, *Judaism and St. Paul,* 82.

65 Ibid., 81–82.

66 Montefiore's work was in essay format and supplied no references to sources. He set to one side the crucial question as to what extent the Judaism practiced in 50 C.E. had differed from that practiced in 300–500 C.E.; he assumed that there had been little difference between the two and ignored the evidence of Josephus and Philo. Most significantly, he distinguished too sharply between Hellenistic and Rabbinic/Palestinian Jewish religious thought. The argument that Paul is better understood in terms of a Hellenistic Judaism in contrast to quite distinct Rabbinic/Palestinian Judaism has not influenced subsequent mainstream Pauline research.

but rather sought to move Rabbinic Judaism out of the line of fire. His solution broke with custom by implying that Jews need no longer regard the Epistles as malicious or anti-Jewish, at least in the traditional sense. As Montefiore saw it, Paul had not been talking about Rabbinic Judaism in the first place.

The other factor mentioned earlier in accounting for the general Jewish disinterest in Paul was the centrality of a divine Christ in his epistles. Montefiore fully recognized the central importance of Christ in Paul's message; for the apostle, "Christianity is not the Law plus Christ. It is Jesus Christ alone."[67] But he based his final assessment of Paul upon a limited number of letters, and one effect of this was to reject as Pauline the more developed Christology of other epistles. As a result, he imagined Paul's authentic view to have been that Christ, although pre-existent before his human birth, had originally been created by God, and suggested that the apostle had not sought to "imply the co-eternity or co-equality of Christ with God."[68] Since he was seeking to introduce the apostle to a Jewish audience in as positive a light as possible, it was in Montefiore's interest to play down Paul's conception of the divinity of Christ where he could. Nevertheless, this was a remarkable statement and set Montefiore apart from his Jewish contemporaries. Rightly or wrongly he had attempted to rescue Paul, to re-interpret the traditional reading of him, when all other Jews had been content to reject him *in toto*. Both as a Jew and as a liberal, Montefiore had opposed any claim of divinity for Jesus. The superimposition of this belief onto the author of the epistles was an example of something we see happening with innumerable interpretations of *Jesus* suggested by Jews and Christians alike in support of their own particular beliefs. What was remarkable was that Montefiore, as a Jew, should have wanted to treat Paul, the Great Apostate, in such a way.

Montefiore wrote repeatedly of abandoning the well trodden paths of religious polemicism, and believed he had found for himself a better place from which to judge the Apostle to the Gentiles. A Liberal Jew, he argued, could truly appreciate both the short-comings, which had been the traditional diet of Jewish apologists down through the ages, and the achievements, which he preferred to dwell upon. Having in these ways defused Paul, so to speak, and with a self-consciously English sense of fair play, he then set himself the task of seeing what, if anything, could be gleaned from the epistles for the benefit of Judaism.

The second half of his book *Judaism and St Paul* could not have been written by any other Jewish writer. One of the most important assumptions driving Montefiore's Liberal Jewish theology was his belief that "All the light has not shone through Jewish windows."[69] If Paul's letters contained universal truths, then as far as the founder of Anglo-Liberal Judaism was concerned, these

67 Montefiore, *Judaism and St. Paul*, 129.

68 These were 1 Thessalonians, Galatians, 1 and 2 Corinthians, Romans, and Philippians. Montefiore, "First Impressions of St. Paul," 428, 430.

69 C. G. Montefiore cited in Norman Bentwich, "Claude Montefiore and his Tutor in Rabbinics: Founders

fragments were worth incorporating into its teachings, albeit in a modified form. As he put it, "There may be a good deal to adapt, although comparably little to adopt."[70]

At the top of this list was, of course, Paul's introduction of a practical (although imperfect) universalism and the inclusion of Gentiles. Again, he admired the apostle's teaching in not giving needless offense for the benefit of those who were "weaker" in faith. This was a policy which he attempted to practice in the context of the Anglo-Jewish response to his own Liberal teachings, especially with regard to the lax liberal observation of the dietary laws. Similarly, Montefiore felt that the controversial use of the vernacular in synagogue services could be justified along the lines of argument that Paul had offered so many centuries before.[71] There was even one element of moral worth in Paul's objection to justification by works that was worth salvaging. According to Montefiore, the apostle had taught that one failed to win righteousness by fulfilling the Law because one could never fulfil it; worse still, one failed to win righteousness even if one did fulfil the Law. In spite of his recognition that "no Jew ever looked at the Law from this point of view," Montefiore admitted that he felt there was, indeed, a danger that "works righteousness" could lead to self-righteousness and self-delusion.[72] Interestingly, he also admired Paul's mysticism, "its solemnity, its power and its beauty" even as a "double outsider . . . that is, a Jew who is not a mystic."[73] He especially appreciated Paul's teaching regarding the reproduction of the death and the risen life of the messiah in the experience of each individual believer, seeing in it a parallel to the rabbinic teaching that a proselyte, brought to the knowledge of the One God, was made new and recreated.[74] Paul's attitude towards suffering was also instructive. He observed,

> Paul not only rises superior to his sufferings, but he rejoices in them. And perhaps in this exultation and rejoicing lies the most peculiar and instructive feature of his career, the feature, moreover, in which he was, though perhaps unconsciously, in fullest accordance with the teaching of his Master and Lord.[75]

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of Liberal and Conservative Judaism," *The Montefiore Lectures* (Southampton: Univ. of Southampton, 1966) 15.

70 Montefiore, *Judaism and St. Paul*, 142.

71 Ibid., 183, 192–94. He quoted Paul's comments, "If I know not the meaning of the language, the speaker is unintelligible to me" and "How shall the unlearned say Amen to your thanksgiving, if he does not understand what you say?"

72 Montefiore, "First Impressions of St. Paul," 443–44.

73 Montefiore, *Judaism and St. Paul*, 194. In a letter to Lucy Cohen, he remarked, "I am no good at mysticism, only respectful." Cohen, *Some Recollections*, 113.

74 Montefiore, *Judaism and St. Paul*, 193–94, 200.

75 Ibid., 201.

Far more than any of his Jewish contemporaries, Montefiore had approached Paul as a source of inspiration and religious insight, someone whom modern Jews would do well to study. In sharp contrast to previous Jewish practice, he openly praised what he felt the epistles had to offer Judaism and quietly rejected all that he believed was unserviceable. It would be wrong, however, to give the impression that Montefiore was anywhere near as positive about Paul as he was about Jesus. The vast mass of Paul's theology had to be rejected, he explained, because of a fundamental tenet of his own Liberal Jewish teaching.

> If [he explained] all men are "saved" whether they believe in Christ or reject him, whether they are idolaters or monotheists, [then] the basis of Pauline theology collapses. The whole scheme and fabric tumble like a pack of cards to the ground.[76]

Paul's theology failed not so much because Montefiore was a Jew but because he was a Liberal, and could not accept that God would ultimately condemn anyone to perdition. Nevertheless, the fact that he found most of Paul unacceptable only makes his effort to repackage him for a Jewish audience, for whom the traditional image was repulsive, even more striking.

Conclusion

Having considered Montefiore in the context of Jewish approaches to the New Testament, it should be apparent that there is a qualitative difference in Montefiore's treatment of Jesus. Certainly, he was drawn to Jesus as someone who had struggled with the authorities of his own day and as a Prophet in the age of Law. The spirit of Jesus' teachings seemed to represent for Montefiore the essence of true Jewish religion. But he did not simply admire him *more* than other Jewish writers — part of the attraction lay in what he regarded as Jesus' originalities and "un-Jewish" developments. As for Paul, despite the fact that Montefiore's interest was essentially limited to what he saw as fresh expressions of Jewish ethical teaching, the fact that he used Paul as a sort of devotional aid in the first place, sets him well and truly apart. This is even truer of his attempt to defuse the traditional Jewish view of the apostle by offering alternative theories for his religious background and for his view of Christ. In contrast to other Jewish commentators Montefiore engaged the teachings of Jesus and Paul (as recorded in the New Testament) in a sympathetic, constructive manner, rather than as an opportunity for voicing anti-Christian grievances. Furthermore, he argued passionately that modern Jews should reclaim rather than disown two of Israel's most influential sons, despite their failings.

76 Ibid., 137.

In any analysis of Montefiore's approach to the central figures of Christianity, and especially his utilization of Jesus, there is a danger that he can be misrepresented as unconcerned with the vital issue of addressing the boundaries between Judaism and Christianity. Even in his own day there was some puzzlement as to why he had not converted, despite the many published utterances by which he sought to distance Liberal Judaism from Christianity.[77] "What Jews think about Jesus," written three years before his death, was Montefiore's last formal attempt to re-clarify and defend his own Liberal Jewish position regarding the central figure of Christianity and to distance it from the opinions of Christian orthodoxy and Unitarianism.[78] From a historical perspective, he insisted,

> I infer a fine, a very fine, character, unlike the teachers of his own age, a sort of eighth-century prophet born out of season, a combination of Amos and Hosea. Jesus is for me *one* of the greatest and most original of our Jewish prophets and teachers, but I should hesitate to say that he was *more* original than any of them.[79]

From a philosophical perspective, and even more to the point, Montefiore maintained that he could not follow those liberal Christians for whom "the real life and ideal life [of Jesus] had become fused into one." This idealization which included within it all perfection was no more possible for Jesus, he wrote, than it was for Moses or Jeremiah or Rabbi Akiba.[80] Despite such disavowals of Christian teaching or belief, Montefiore's generally conciliatory tone when writing about the New Testament, and his tendency to focus upon those Christian teachings which he regarded positively, left him open to misinterpretation.

Although he apparently never contemplated conversion, Montefiore regarded the best of the contemporary Christian thought as superior to much of what Judaism generally stood for at the time. While he became intensely concerned to forward the cause of Judaism, he could not quite leave behind the admiration and appreciation he had developed for Christianity. He regarded himself as a better man, a better Jew, for the cosmopolitan up-bringing and education he had enjoyed, and he felt keenly the intellectual debt his owed his tutor at Oxford, Benjamin Jowett, and many other Christian thinkers. His high regard for the New Testament teachings and his liberal conviction that religious truth can

77 For example, C.G. Montefiore, *Outlines of Liberal Judaism* (London: Macmillan, 1912) and C.G. Montefiore, *The Old Testament and After* (London: Macmillan, 1923) both consider in some detail what aspects of Christian thought he believed should be adopted, adapted or rejected in the context of the development of Judaism.

78 C.G. Montefiore, "What a Jew Thinks About Jesus," *HibJ* 33 (1934–35) 511–20.

79 Ibid., 516.

80 Ibid., 520.

be found outside one's own particular system, can be seen as an indication of the respect with which he held the world-view and value-judgements of such men. Ultimately, an understanding of the nature of Montefiore's Liberal Jewish theological agenda helps explain his interest in re-introducing Jesus and Paul to Jews. As has been argued elsewhere,[81] Montefiore's own personal conception of Liberal Judaism should be regarded as more than simply a progressive Jewish denomination, and rather as an attempt to re-mould Reform Judaism in terms of, or with special reference to, contemporary liberal Christianity. He himself explicitly wrote of translating liberal Christian thought into a Jewish context.[82] In a very real sense, his Liberal Judaism represented an attempt to reconcile his regard for Christianity with his loyalty to his Jewish roots. His unique approach to Jesus and Paul was therefore an integral element in his construction of a coherent Jewish world-view that could incorporate Christianity in a positive way.

81 D.R. Langton, "Claude Montefiore and Christianity; Did the Founder of Liberal Judaism Lean too far?" *JJS* 50(1999)98–119.

82 "The main tenor of [Jowett's] teaching was in harmony and agreement with a progressive and enlightened Judaism. It can be translated, and it needs to be translated, into Jewish [sic]. Very imperfectly and stumblingly I have sought to do this from time to time." C.G. Montefiore, "The Religious Teaching of Jowett," *JQR* 12(1899–1900)374.

נספח א

הרשימה המשוערת של ראשי היהודים

פלטיאל, רופא חצר רבני (מוסא בן אלעזר) (969) – או לחלופין

יצחק בן מוסא, רופא חצר רבני — מנשה אבן אלקזאז, סוחר ופקיד ממשל, קרא

ישמעאל בן מוסא, רופא חצר רבני — עדי בן מנשה, סוחר ופקיד ממשל, קרא

יעקב בן יצחק, רופא חצר רבני — שמריה בן אלחנן, מנהיג הקהל, רבני (970–1011)

מוסא בן יעקב, רופא חצר רבני (1039) — אלחנן בן שמריה, מנהיג הקהל, רבני (1011–1026)

חֶסֶד הַחַסַּרי, סוחר, איש כספים ופקיד ממשל, קרא (1026–1049/50)

דויד הלוי בן יצחק, סוחר, איש כספים, פקיד ממשל, קרא (1050–1055)

אברהם הכהן בן יצחק, רופא חצר רבני (1055–1065)

יהודה בן סעדיה, רופא חצר רבני (1065–1078)

מבורך בן סעדיה, רופא חצר רבני (1078–1082)

דויד בן דניאל, ראש גולה במצרים (1082–1094)

מבורך בן סעדיה, רופא חצר רבני, חוזר לכהונה (1094–1111)

נספח ב

אברהם הכהן בן יצחק–אילן יוחסין משוער

מהשוואת דמותו של אברהם הכהן עם דמויותיהם של חסד התֶסתַרי ודויד הלוי בן יצחק, אלה שכיהנו לפניו, עולה שהמימצאים זהים. מהשוואת דמותו עם זו של יהודה ומבורך בני סעדיה, אלה שכיהנו אחריו, עולה שהמימצאים כמעט זהים, לאור השתנות הנסיבות הפוליטיות. מבחינת הזמן הוא מכסה בדיוק את הפער החסר בשנים בין דויד הלוי בן יצחק לבין יהודה בן סעדיה, והוא החוליה המחזירה את המשרה הרמה לרופאי החצר, כפי שהיו בראשיתה.

לא נדרשתי במאמר זה לדיון במשמעות התואר ,נגיד׳ ומי היו אלה שהוכתרו בו. על פי ניתוחה של סלע בעקבות מאן, התואר ,נגיד׳ הוא תואר יהודי המקביל לתואר הפאטְמי רַאיס אליַהוּד כבר מימי פלטיאל המסתורי, הווה אומר, מראשית השלטון הפאטְמי. המינוי רַאיס אליַהוּד היה מינוי פאטְמי שבא לענות על צרכי החצר הפאטְמית בבואה להסדיר את שאלת אירגונם החיצוני וייצוגם בחצר של בני החסות היהודים, ואין הוא קשור בתארים שהישיבה העניקה לפי צרכיה לאישים שונים. ההיפך הוא הנכון. לאור עלייתו של הנכבד במעלות החצר כך גם העניקה לו הישיבה תארים, כדי לקשור אותו אליה ולהבטיח את שירותיו הטובים לישיבה. לא מצאתי את התואר ,נגיד׳ קשור באברהם הכהן, אך בדעתי את מקריותם של מסמכי הגניזה, נראה לי שאין העדר איזכור התואר ,נגיד׳ שולל את התמונה שהצגתי בכללותה. מה גם, שכנראה לא לכל רַאיס אליַהוּד העניק הגאון את התואר ,נגיד׳:[99]

מחקר זה נכתב במסגרת שנת השתלמות במימון קרנות השתלמות למורים של הבנק הבילאומי הראשון, ובחסות מכללת ,אחוה׳.

99 וראה גיל, ארץ ישראל, א:487–490. בסופו של עמ׳ 489 מציין גיל שלא התֶסתַרים ולא אברהם הכהן התמנו על ידי השלטון להיות רַאיס אליַהוּד, אבל לי נראה שהיום אפשר להוכיח אחרת, ראה לעיל, הערה 18.

אלַיהוּד, אנו יכולים להציג את שורת המאפיינים הבאים:

אישיות חצרנית, בתחום הכספים והמסחר או בתחום הרפואה.

בן לשושלת של אנשי כספים או רפואה, לפחות שניים שלושה דורות, שיש לה מעמד בחצר.

קשרים הדוקים עם מושלים מדרגים שונים במינהל הפאטְמי, עם הוזיר, עם אֵם החַ׳ליפה ועם החַ׳ליפה עצמו.

מקבל המינוי הרשמי המשולש מטעם החַ׳ליפה על כל היהודים, הרבניים, הקראים והשומרונים.

תלות גדולה בו של כל הקהילה היהודית בכל המרחב הפאטְמי.

הגאונים תלויים בו, כפופים לו, משתדלים לשמור על מערכת יחסים הדוקה איתו, מכתירים אותו בתארים.

התארים היהודיים של כל ראשי היהודים בנויים על אותו בסיס של תואר כפול: ,שר׳ (עם תוספת כגון ,השר האדיר׳, ,עטרת השרים׳) ו,זקן׳ (עם תוספת כגון ,זקן הדור׳, ,הוד הזקנים׳ או ,זקן בית ישראל׳).

מתבקש להתערב בחצר המלכות בכל בעייה, כספית, חברתית או פוליטית, שניצבת בפני היהודים בכל המרחב הפאטְמי.

הקשר בינו לבין הגאון, הישיבה והקהילה היהודית מתבצע באמצעות אנשי ביניים, שהם מנהיגי הקהל בפֻסטאט, דבר המעיד על היותו פקיד ממשל פאטְמי.

המכתבים המופנים אליו כתובים בסגנון דומה למכתבים שמופנים אל הממשל הפאטְמי, מליצות דומות, צורת פנייה דומה, אוצר מלים השאול מן הלכסיקון הדיפלומטי הפאטְמי, הדגשת תאריו, מעלות ומעמדו לעומת נחיתותם של הפונים.

אין קשר בין מעמדו בחצר הפאטְמית ותארו רַאיס אלַיהוּד לבין כישוריו הלמדניים. לא בלמדנות כוחו או עצמתו, להבדיל ממנהיגי הקהל, שנדרשו להפגין ידע למדני.

בתור רַאיס אלַיהוּד הוא מתערב במהלך מינוי בעלי התפקידים בקהילה, ממנה ומפטר אפילו בעלי תפקידים בכירים כמו ראש הקהילה.

אברהם הכהן מתאפיין בכל הנקודות האלה, כפי שמתאפיינים בהן גם אלה שקדמו לו. אלה שבאו אחריו כבר פעלו בנסיבות פוליטיות שונות לחלוטין, כנזכר לעיל. הוא היה רופא חצר, ידוע בכישוריו, בן לרופא חצר מצליח, בעל קשרים הדוקים עם אנשי ממשל פאטְמים, עם הוזיר, אֵם החַ׳ליפה והחַ׳ליפה עצמו. הגאונים היו תלויים בו וביקשו את התערבותו בחצר בכל בעיה, בדרך של פנייה באמצעות אנשי הקשר, במכתבים נושאי אופי של פנייה לאנשי ממשל פאטְמי. הגאונים העניקו לו את התארים שכמוהם הוענקו לראשי היהודים לפניו, ואולי אפילו נרמז תארו המשולש המעיד על שליטה על כל היהודים בממלכה הפאטְמית. הוא מינה ופיטר בעלי תפקידים בקהילה והיה בעל סמכויות על כל קהילות היהודים במרחב בשיתוף פעולה מלא של הגאון.

הכהן לגייס את מיטב השפעתו בחצר ולהציל נפש יהודי שנידון למיתה.[94] אבל ככלל, אין אנו מוצאים עוד מכתבים רבים מן הגאון אל אברהם הכהן לקראת סוף שנות הששים. מי שעדיין טרח לשמור אתו על קשרים הדוקים היה עלי הכהן הפרנס בן יחזקאל מישיבת ירושלים, קרוב משפחתו.[95]

אולי כרוכה בירידת מעמדו של אברהם הכהן גם העובדה ששהה בארץ ישראל כמה שנים, בסוף שנות הששים. משנוכח שיש חזק ממנו, הדוחק את רגליו, ביקש למצוא מחדש את מקומו בארץ ישראל. בסופו של דבר חזר והשתכן בקהיר.[96] המכתב האחרון שמזכיר את אברהם הכהן, יש בו משום עדות עצובה לירידתו של האיש בעל ההשפעה ולעלייתו של אחר במקומו. עלי הכהן החבר בן יחזקאל מירושלים כתב לעלי הכהן בן חיים בפֻסטאט מכתב ארוך. בין היתר סיפר לו שעלה אל קברי אבות׳ (היא חברון) ועמו קהל רב: ׳... וחי ירושלים! אכן התפללתי למען אדוני החבר אבו זכרי (יהודה בן סעדיה) שמרו צורו, ולמען בנו ולמען אחיו (מבורך בן סעדיה), ולמען אדוני ורבי שר העדה (אברהם הכהן) ולמענך אדוני ... .׳[97] כבר ניכרת כאן היראַרכיה חדשה בסדר התפילות. בראש ניצב הרַאיס אליַהוּד החדש, או המעותד לתפקיד זה, יהודה בן סעדיה, אחריו אחיו הרופא, מבורך בן סעדיה, שלימים יירש את מקום של אחיו בתור הרַאיס אליַהוּד, ורק אחריהם נזכר ׳שר העדה׳; הוא אברהם הכהן, שכבר ירד מגדולתו הקודמת. אין בידינו מידע על שנת מותו של אברהם הכהן. אין הוא נזכר עוד בכתבי הגניזה.[98]

דברי סיכום

הצגתי כאן את דמותו של אברהם הכהן הרופא בן יצחק בתור הרַאיס אליַהוּד בין השנים 1055–1065 בערך, בין כהונתו של דויד הלוי בן יצחק לבין כהונתו של יהודה בן סעדיה. הניתוח נעשה בעיקר על סמך קריאה חדשה של תעודות שכבר היו מוכרות במחקר המדעי ומציאת רמזים ספרותיים בתוכן. דמותו של אברהם נבדקה בהשוואה לקודמיו. אלה שבאו אחריו, החל משני האחים יהודה ומבורך בני סעדיה, ובעיקר דויד בן דניאל, כבר פעלו במציאות שונה לחלוטין מזו שבתוכה פעל אברהם הכהן. ישיבת ארץ ישראל גלתה ממושבה ואיבדה את סמכויותיה. עובדה זו פתחה פתח לחצרנים במצרים לפרוץ לתוך החלל שנוצר ולקחת לידיהם סמכויות שהיו בעבר בידיו של הגאון כגון מינויים של בעלי תפקידים ופיטוריהם. מניתוח כל הדמויות שהצגתי בראשית דברי, אשר קיבלו את המינוי הפאטְמי רַאיס

94 T-S AS 148.3, פתק מדניאל בן עזריה אל אברהם הכהן, מבקש התערבותו בהצלת יהודי שנידון למות, גיל, ארץ ישראל, ב, מס׳ 351; T-S 8J19.15, פתק מעלי החבר, ראש קהל הירושלמיים בפֻסטאט, לאברהם הכהן, מבקש התערבותו בעניין יהודי הצפוי למות. יש להניח שמדובר באותו עניין, גויטיין, היישוב, 179–180; Bodl. MS Heb. c 28, f. 43, מכתבו של עלי הכהן בן יחזקאל מירושלים אל עלי הכהן בן חיים בפֻסטאט, מבקש שעלי הכהן בן חיים יבקש מ׳שר העדה׳; הוא אברהם הכהן, שיתערב אצל המושל הפאטְמי בירושלים בענייני המסים המוטלים על היהודים, גיל, ארץ ישראל, ג, מס׳ 450, ע״א, שורות 17–19.

95 Bodl. MS Heb. d 66, f. 118, פתק שכתב עלי הכהן בן יחזקאל לאברהם הכהן. הוא מודיע לו כי סכום כסף שאברהם הכהן שלח לו לפני נסיעתו, כנראה בשובו מרמלה למצרים, לא הגיע לידיו, גיל, שם, מס׳ 437.

96 ביום ו, כ״ח בתשרי א׳שס״ט לשטרות (29 בספטמבר 1057) נערך שטר בבית דינו של הגאון דניאל בן עזריה בירושלים. על פי השטר שיחרר ,אברהם ביר יצחק דמתכני בן הדוד׳ את השפחה טַרַאיף, גיל, ארץ ישראל, א:598, הערה 896; וראה לעיל, הערה 95, על סכום הכסף ששלח אברהם לפני נסיעתו בחזרה.

97 T-S 10J19.16, ע״א, שורות 3–4, התרגום של גיל, ארץ ישראל, ג, מס׳ 452.

98 על האחים בני סעדיה ועלייתם לכס רַאיס אליַהוּד: כהן, ממשל עצמי, 157–271. וראה על המאבק האפשרי בין שני הרופאים, אברהם הכהן ויהודה בין סעדיה: סלע, תולדות התואר, 260–262, וראה לעיל, הערה 92.

קשרים הדוקים עם עוד אחד מנשיאי הקראים עולים גם ממכתב של שלמה בן יהודה אל אברהם הכהן. הגאון מזכיר שהנשיא הקראי אַבּוּ אלחַסַן יאשיהו עומד להיפגש עם אברהם ומפגיע באברהם שיסדיר עם הנשיא עניינים מסוימים.[85] קשרים דומים נרמזים גם על ידי עלי הכהן הפרנס החבר בסנהדרין גדולה בן יחזקאל החזן בן שלמה החבר, אחד מן האישים הבולטים של ישיבת ארץ ישראל, ואולי גם קרוב משפחתו של אברהם הכהן, על פי לשון הקירבה שהוא נוקט בה במכתביו אליו.[86] הגאון דניאל בן עזריה, הזכיר באחד ממכתביו לאברהם הכהן כי ,נפוצה אצל אנשינו (הרבניים) . . . (הידיעה) בדבר רום מעמדך . . . אצל הדרת הוזירות הנכבדה . . . ורבו שמחתם ותודתם לאלהים . . . וביקשו כי יוסיף לך תוספת כל טוב . . . ;[87] דבריו על ,אנשינו (הרבניים)' עשויים לרמוז לכך שאברהם אינו בדיוק מאנשיהם. הצטברות כל הרמזים הללו עשויה לפחות להעלות השערות על קשריו המאוד קרובים של אברהם לקראים ולקראות, או אפילו על קראותו, ולצרף אותו בכך לשורת ראשי היהודים מן הקראים, חסד התֶסַרי ודויד הלוי בן יצחק (ואולי גם למנשה אִבְּן אלקַזָּאז).

סוף דבר

בשנת 1055 בקירוב נשא אברהם הכהן ,שר העדה פאר הכהנה זקן הבין והיראה והדיעה' אשה.[88] למרות הברכות והאיחולים לבן, שליוו רבים מן המכתבים שכתבו אליו,[89] כנראה לא נולד לאברהם בן.[90] הכֶּניה (כינוי) שלו ,אַבּוּ אִסחַק; אינה בהכרח מעידה על כך שיש לו בן בשם יצחק, אלא על כֶּניה קבועה לשם אברהם, על פי אברהם אבי האומה שהיה אביו של יצחק.[91]

בסוף שנות הששים התחילה להסתמן ירידה בכוחו של אברהם הכהן. ייתכן שבאה בד בבד עם עלייתו של רופא יהודי חדש במעלות החצר, הלוא הוא יהודה בן סעדיה.[92] השפעתו של אברהם עדיין היתה רבה הן בחצר והן בקהילה. הוא מינה ופיטר בעלי תפקידים בקהילה בשיתוף פעולה הדוק עם הגאון דניאל בן עזריה והפעיל את סמכותו על מנהיגיה, שטרחו לשמור אתו על קשר הדוק.[93] כשעלתה בעיה קשה ביותר, של חיים ומות, נדרש עדיין אברהם

85 Bodl. MS Heb. b 11, f. 1, שורות 30–33, גיל, ארץ ישראל, ב, מס' 142. על הנשיא יאשיהו ועל הקשרים בינו לבין אברהם הכהן ראה: שם, א: 638–640.

86 גיל, ארץ ישראל, א: 641, הערה 927; 655, בסוף הערה 937. על קירבת המשפחה האפשרית בין אברהם הכהן לעלי הכהן ראה: שם, 455, הערה 779.

87 Bodl. MS Heb. a 3, f. 17, ע"א, שוליים למעלה, שורות 2–8, גיל, ארץ ישראל, ב, מס' 357.

88 T–S 18 J 4.11, מכתב ברכה לרגל נישואיו מאת עלי הכהן בן יחזקאל, גיל, ארץ ישראל, ג, מס' 438.

89 למשל ENA NS 18.38, שורות 30–31, גיל, שם, מס' 439.

90 גיל, מילואים, עמ' 307; במכתב שכתב עלי הכהן בן יחזקאל בשנת 1060 בערך אל עלי הכהן בן חיים בפֶּסטאט, הוא מספר לו כי עלה אל ,קברי אבות' (חברון) והתפלל שם למען יהודה בן סעדיה, אחיו ובנו, ולמען ,שר העדה; הוא אברהם הכהן. ולא היה נמנע מלהזכיר את בנו של אברהם, לו היה לו בן, T–S 10 J 19.16, ע"א, שורות 3–4, גיל, ארץ ישראל, ג, מס' 452. על עלי הכהן בן יחזקאל ראה שם, א: 490.

91 הכֶּניה שלו ,אַבּוּ אִסחַק; למשל: Bodl. MS Heb. c 28, f. 67, ע"ב, שורות 1–2, גיל, ארץ ישראל, ב, מס' 101, ועוד רבים.

92 ראה לעיל, הערה 15. אולי הסִגִ'ל שפירסמה ש' סלע, על מינוי רַאיס אליַהוּד חדש, רופא חצר, על פני יריבו, רופא חצר גם הוא, שייכת לכאן, אבל הדבר עדיין טעון בדיקה יסודית. ראה: סלע, תולדות התואר, 260.

93 ENA NS 47.2, מכתב מדניאל בן עזריה אל ,שר העדה הוד הזקנים; אברהם מתבקש לפעול בתקיפות נגד חזן ממרה, גיל, ארץ ישראל, ב, מס' 358, וראה: ברקת, שפריר, 131–132; T–S 8 J 22.14, פתק מסַהלאן בן אברהם, ראש קהל הבבליים בפֶּסטאט, לאברהם הכהן, מבקש ממנו לדאוג לעניי מסויים, ש"ד גויטיין, „פעולתו הציבורית של רבנו אלחנן בן שמריה ראש הסדר שלכל ישראל", ספר היובל לפינקל (ניויורק: ישיבה אוניברסיטי, 1974) החלק העברי, עמ' 126–127. וראה: ברקת, שפריר, 183–184.

שהמעבר בין העדות היה אפשרי. על פי עדויות מן הגניזה היתה ניידות בין שתי העדות ולעתים בחרו האנשים להשתייך דווקא לעדה מסוימת על פי אינטרסים חברתיים וכלכליים.[77] כזכור הזמין הגאון דניאל בן עזריה את אברהם הכהן להתפלל עמו בבית הכנסת ברמלה. האם יעלה על הדעת שקרא יתפלל בבית הכנסת הרבני? והנה אפילו שלמה בן יהודה מעיד על עצמו, שבטרם התמנותו גאון, היה שליח ציבור בבית הכנסת הרבני והקראי ברמלה לסרוגין.[78] במכתבי המחאה שכתב אברהם הכהן אל החֲליפה בפרשת המחלוקת בין שלמה בן יהודה ונתן בן אברהם הוא תוקף את חסד התֶּסַדֲרי בנימוק ,שאין הוא מבני דתם; בשעה שבכל המכתב הוא מדבר בגוף ראשון רבים. האם כתב כך אברהם משום שהוא עצמו היה קרא שדיבר בשם הרבניים?[79] את יצחק, אבי אברהם הכהן, כינו גם ,זקן שתי הפאות; שתי הפאות הן שתי העדות, הרבניים והקראים.[80] בתואר זה כינו את האחים התֶּסַדֲרים שהיו קראים ואת הקרא דויד הלוי בן יצחק, בשעה שהתערבו לפני החֲליפה והוזיר להצלת מנהיג קהל הירושלמיים מעלילת שווא. בהזדמנות אחרת כינו את דויד הלוי בן יצחק ,פאר שתי הפאות;[81] נראה איפוא, שאת התואר הזה ייחדו לחצרנים קראים נעלים, לכאורה בעלי התואר רַאיס אלַיהוּד והסמכות הכוללת על הרבניים, הקראים והשומרונים. התכוונו לצרף את התואר לשמו של אברהם הכהן וצרפוהו לשמו של אביו וכך חלקו כבוד גם לאביו של הרַאיס אלַיהוּד.

בדומה לחסד התֶּסַדֲרי ולדויד הלוי בן יצחק, קודמיו בתפקיד, ניהל גם אברהם הכהן כינוסים וישיבות בענייני הקהל במַגְלַס שלו, הוא חדר המושב. כך עולה ממכתבו של הגאון דניאל בן עזריה, רמז למעמדו של אברהם, אך אולי גם לקראותו (מַגְלַס הוא בדרך כלל הכינוי לבית הכנסת של הקראים).[82] אביתר הכהן בן אליהו, שהיה הגאון לאחר מות אביו בשנת 1083, האשים במגילתו הידועה את דניאל בן עזריה עצמו בקשר עם הקראים: ,ויתחזק בכת צלע; ייתכן מאוד שהתכוון בכך לקשיריו של דניאל בן עזריה עם אברהם הכהן בן יצחק.[83] עלינו להוסיף לכך את מכתבו של זכאי בן יְדִידְיהוּ, הנשיא הקראי, שמכנה את אברהם הכהן ,גזע הרועים' ו,חוטר מגזעם; בדרך כלל ביטויים אלה היו שמורים לבית דויד. ואולי הוא מרמז כאן על קשרים משפחתיים של אברהם עם משפחתו שלו, שהיא נצר לבית דויד, על פי תוארו ,הנשיא.[84]

77 למשל גיל, ארץ ישראל, א:646.

78 ראה לעיל, הערה 56. שלמה בן יהודה שליח ציבור: ENA 2804.12, שורות 3–6, גיל, ארץ ישראל, ב, מס' 75, וראה גם: שם, א:655. וראה: ברקת, שפריר, 20.

79 גיל, ארץ ישראל, ב, מס' 197, עמ' 351, שורה 25.

80 ENA NS 18.38, שורה 8, גיל, שם, ג, מס' 439. אמנם גיל, א:455, הערה 779 כותב שאת אברהם כינו ,זקן שתי הפאות; אך זוהי טעות: אברהם אינו מכונה בשום מסמך גניזה בתואר הזה, ורק אביו יצחק מכונה כך במסמך שלפנינו. גיל מציע שם גם כי במונח ,שתי הפאות' התכוונו לירושלמיים ולבבליים, אך אין הדבר כך לפי כל המקומות האחרים בכתבי הגניזה שבהם נזכר המונח הזה. ראה: גויטיין, חברה, ב:53, 534, הערה 84.

81 זקני שתי הפאות: T–S 18J4.26, שורות 29–32, מכתב מהישיבה אל אפרים בן שמריה, גיל, ארץ ישראל, ב, מס' 47; פאר שתי הפאות: T–S 13J14.20, שורה 12, מכתב מאלכסנדריה לפֶסטאט בענייני פדיון שבויים, מאן, יהודים, ב:87, וראה שם, א:90. ראה גם: סלע, ראשות היהודים, 259, הערה 11.

82 המַגְלַס של חסד התֶּסַדֲרי ודויד הלוי בן יצחק: גיל, ארץ ישראל, ב, מס' 177, שורות 21–23. המַגְלַס של אברהם הכהן: T–S 24.56, ע"ב, שורה 1, שם, מס' 355. וראה גם: סלע, ראשות היהודים, 262–264. מַגְלַס הוא בית הכנסת של הקראים: ראה גיל, ארץ ישראל, ג:695, על פי המפתח.

83 גיל, ארץ ישראל, ג:395, שורה 9, וראה: שם, א:588.

84 T–S 13J15.14, שורות 3–5, ראה לעיל, הערה 76; T–S 13J21.4, פיוט בכתב ידו של סַהלאן בן אברהם, מנהיג קהל הבבליים בפֶסטאט. גם הוא מכנה את אברהם ,אבי אסחק פאר כל הגזעים; שורה 14, ראה לעיל, הערה 47.

מקהל ירושלים אל אברהם הכהן הרופא בקהיר: . . . ,וימציאהו חן לפני אדוננו המלך יל (יחי לעד) ולפני הגבירה ולפני גדולי המלכות ובעיני כל רואיו . . . אשר הוא עומד לפני עם יי בכל יכלו ובכל מאודו ומשליך נפשו מנגד בעד עמו ישראל . . . ;[72] גם מלשון זו אפשר להסיק שאברהם הכהן, בדומה לדויד בן יצחק לפניו, נשא במישרה הרמה שאיפשרה לו לצאת ולבוא בחצר ולפעול למען עמו. באותו מכתב מכנים אנשי קהל ירושלים את אברהם הכהן בתואר ,תפארת השרים; וכינוי זה הוא מקבילה מדויקת של כינויו של קודמו, דויד הלוי בן יצחק ,עטרת השרים;[73]

אנשי הקהל בפֻסטאט ראו באברהם את מנהיגם העליון, מתוקף מישרתו ומתוקף הוראת הגאון, אך ראוי לציין שלא כולם היו שלמים עם סמכויותיו הבלתי מעורערות והיו גם אנשים שככל שניתן בידם יצאו נגדו, כמנהג הקהל היהודי שהורגל גם בשלטון ריכוזי, אך גם בזכויות הפרט, בעיקר אם היה זה מנהיג הקהילה שיצא נגד סמכותו המוחלטת. דברים אלה עולים ממכתב של עלי בן עמרם אל אברהם הכהן. ראשיתו פתיחה מחורזת ובה דברי שבח והלל, שבהם הדגש הוא על המילה ,ראש; המשכו הודעה כי עלי בן עמרם, בתור ראש הקהל, מכריז את שמו של אברהם הכהן בראש כל תפילה בבית הכנסת, כפי שנהגו כלפי כל מנהיג ומושל, ועל פי הוראתו המפורשת של הגאון. אך בהמשך המכתב מודיע עלי בן עמרם לאברהם הכהן כי אינו יכול להתייצב בפניו כנדרש, משום שהוא עסוק בחנותו ואין מי שיחליפו בעבודתו, דברים שיש בהם משום עזות מצח ומרדנות, והם משקפים את מערכת היחסים המורכבת בינו לבין הרַאיס אלַיהוּד בראשית צעדיו של עלי בן עמרם בתור ראש הקהל. לימים נתמסדו היחסים ביניהם וראש הקהל המרדני למד לציית לעומד בראש.[74]

כפי שעולה מכתב מינוי של הרַאיס אלַיהוּד על ידי החַ׳ליפה הפאטְמי, נשא ראש היהודים בתואר שכלל בקרבו את הראשות על שלושת העדות המוכרות של היהודים: ,ראש כל היהודים, הרבניים, הקראים והשומרונים;[75] עדיין לא מצאנו את התואר הכולל הזה כלשונו בהתייחסות אל ראשי היהודים שהזכרנו כאן כגון חסד התֶסתַרי, דויד הלוי בן יצחק ואברהם הכהן, אולם רמזים לתואר ניתן למצוא. זכאי הנשיא בר ידידיהו, נשיא קראי, כתב לאברהם הכהן מכתב שפתיחתו מליצות מחורזות. בין יתר השבחים שהרעיף עליו כינהו ,פאר שלושה חלקים; תואר שעשוי לרמוז על שליטתו בשלושת חלקי האומה על פי התפיסה האסלאמית.[76]

כרוך בנושא זה הוא גם הנושא הקראי. כפי שראינו לעיל, לאחר ימי החַ׳ליפה אלחאכִּם עלו האישים הקראים לגדולה בחצר המלך. שני הראשים שקדמו לאברהם, חסד התֶסתַרי ודויד הלוי בן יצחק היו קראים. שורה של רמזים מאפשרת לנו להגיע למסקנה שאברהם הכהן היה גם הוא קרא או מקורב מאוד לקראים. לכאורה אין להעלות על הדעת שהיה קרא, שהלא אביו היה כנראה אחיו של הגאון שלמה הכהן בן יהוסף. אבל היטב ידוע לנו

72 ENA NS 18.38, שורות 16–21, גיל, ארץ ישראל, ג, מס׳ 439.

73 ,תפארת השרים׳: שם, שורה 2. ,עטרת השרים׳: ראה לעיל, הערה 68.

74 T-S 13J31.5, מאן, יהודים, ב:84–85, הביא רק את החלק הכתוב עברית; גויטיין, היישוב, 150, מביא את תוכן החלק הכתוב ערבית–יהודית; ראה גם: גיל, ארץ ישראל, א:455, הערה 779, 594–595. וראה: ברקת, עלי בן עמרם, יא–טז.

75 סלע, תולדות התואר, 257.

76 T-S 13J15.14, שורה 9, מאן, יהודים, ב:83–84. זהותו של הנשיא הקראי זכאי בן ידידיה אינה ידועה לנו. ראה שם, א:85, וראה גם: גיל, ארץ ישראל, א, הערה 779. ניתוח ספרותי דומה עשתה גם ש׳ סלע לגבי דמותם של פלטיאל ובנו, שאולי היו ראשי היהודים הראשונים תחת השלטון הפאטְמי, סלע, תולדות התואר, 263.

ולהרים על נס את מעמדו הגבוה בחצר ואצל הוזיר, ולהורות על תפילות לכבודו. גם שליטתו של חסד בענייני קהילת פֶסטאט היתה מוחלטת.[67] הדברים חוזרים על עצמם בדמותו של דויד הלוי בן יצחק. כינו אותו לרוב ,השר הנאה; ,השר האביר; ,השר היקר; או ,עטרת השרים; תארו המיוחד היה ,זֶקֶן הדוֹר; וכתבו לו במכתבים ,זקן הדור השר האדיר;[68] התארים הללו מדברים בעד עצמם: התואר ,שר; כאמור לעיל, הוענק על ידי הגאונים ומנהיגי הקהל אך ורק לחצרנים היהודים. התואר ,זקן; הוענק לנכבדי הקהל, העשירים והמשפיעים, שמתוכם היו מתמנים בעלי התפקידים בקהילה. אבל התארים הכפולים שמנינו לעיל, כגון ,השר הגביר זקן בית ישראל; אותם מצאנו רק בהקשרים של חצרנים מורמים מעם, אלה שלכאורה נתמנו לתואר רַאיס אלַיהוּד, כגון אלה שמנינו כאן, חסד התֶסתַרי, דויד הלוי בן יצחק ואברהם הכהן. את הרַאיס אלַיהוּד שבא אחרי אברהם הכהן, הלוא הוא יהודה הרופא בן סעדיה, כינה שלמה הכהן בן יוסף, בן אחיו של הגאון אליהו הכהן בן שלמה בתואר ,זקן ההוד; תואר כמעט זהה לשל אברהם הכהן שכינויו היה כזכור ,הוד הזקנים; אך בגירסה אחרת, כדי להבדיל בינו לבין קודמו. את התואר הזה העניק ליהודה בן סעדיה הגאון אליהו הכהן ששלט בין השנים 1062–1083.[69]

החזן של קהילת פֶסטאט ויד ימינו של המנהיג אפרים בן שמריה כתב לרַאיס אלַיהוּד דויד הלוי כך: ,. . . אדוננו כבוד קדושת מרנא ורבנא דויד בן יצחק השר הנכבד העומד בפרץ ומיליץ יושר בעד ישראל לפני המלך והשרים והגבירה והסריסים . . . כיוסף לפני פרעה וכמרדכי לפני אחשורוש; תאור זה הולם בדיוק את מעמדו של האדם הממונה באופן רשמי על ידי החֲליפה להיות רַאיס אלַיהוּד, והוא יוצא ובא לפני המלך, אמו וכל אנשי חצרו, ופועל למען עם ישראל בחצר המלך כיוסף וכמרדכי בשעתם.[70] מכתב אחר שהופנה אל ,אדוננו פאר כל בני לוי; קרוב לודאי דויד הלוי בן יצחק, נוקט בלשון דומה: ,לאדוננו השר הגדול המכובד והמיוקר המכותר בארבעה כתרים כתר תורה וכתר לויה וכתר יראה וכתר מלכות קבה (קדוש ברוך הוא) . . . ויתנהו לחן ולחסד . . . ובעיני המלך והמשנה והגברתות והסריסים ושרי המלכות ועיני כל אנשי המלכות . . . ,[71] באותה לשון בדיוק כתבו אישים

67 גיל, שם, א:456–457; גיל, התסתרים, 44–57; סלע, ראשות היהודים, 262–264.

68 ,השר הנאה': T–S 18J4.26, שורות 28–29, גיל, ארץ ישראל, ב, מס' 47; ,השר האביר': T–S 24.43, שורה 9, שם, מס' 51; ,השר היקר': ENA 2804.12, ביחד עם ENA 2804.13, ע"ב, שורה 6, שם, מס' 75; ,עטרת השרים': JSTL ENA 2697.26, ע"ב, שורה 1, סלע, ראשות היהודים, נספח א, ע"ב שורה 1; ,זקן הדור': T–S 13J14.20, שורה 12, מאן, יהודים, ב:87.

69 T–S Misc. 36.174, שורה 20, כהן, ממשל עצמי, 171, הערה 50, ושם ביבליוגרפיה נוספת. כהן מעלה את ההשערה שיהודה בן סעדיה קיבל את התואר הזה עם התמנותו רַאיס אלַיהוּד, דבר שנכון בעיני גם לגבי אברהם הכהן. על שלמה הכהן ראה שם, 109. על הגאון אליהו הכהן ושנות שלטונו ראה: גיל, ארץ ישראל, א:600–606.

70 Dropsie 401, מכתבו המחורז של דויד בן שכניה אל דויד הלוי בן יצחק, ברקת, שפריר, 250, הערה 11, ושם ביבליוגרפיה מפורטת, וכן 123. ראה גם: סלע, ראשות היהודים, 258, הערה 9. על דויד בן שכניה ראה: ברקת, שפריר, 122–124.

71 Bodl. MS Heb. c28, f. 26, מאן, יהודים, ב:340 (אצלו: Bodl. 2875.26). ראה גם: גויטיין, חברה, ב:352, הערה 32, 604. דבריו של גויטיין, שם, 352–353, יש בהם משום חיזוק בדבר השערתי בנושא של רַאיס אלַיהוּד. מעניינת ההתייחסות במכתב לארבעת הכתרים שבהם מכתיר הכותב את מקבל המכתב, ובעיקר מעניינת ההכתרה ב,כתר מלכות קבה' – האם מדובר כאן במעמד מלכותי כלשהו, התואר רַאיס אלַיהוּד? ,גברתות' – הכוונה לאם המלך ואשתו, הגבירות שלפניהם יוצא ובא הרַאיס אלַיהוּד. ,סריסים' – שרים בכירים בממשל הפאטמי, ראה: ברקת, שפריר, 30–31.

הגאון מציין במכתבו גם שאברהם הוא ,אלאצול פי הדה אלנעמה; כלומר מקור החסד הזה. למונח נְעמה בלכסיקון הדיפלומטי הפאטְמי משמעות של חסד המוענק בתוקף צו מלכותי.[60] במכתב אחר שיצא באותה שנה מארץ ישראל כתבו לאברהם בין מליצות הפתיחה: ,מנוי בסגולה; זהו משחק מלים בעברית על המונח הדיפלומטי הפאטְמי סְגִ׳ל, לכאורה עדות לכך שאברהם קיבל את הסְגִ׳ל, כלומר את התואר רַאיס אלַיַהוּד.[61]

בעקבות המינוי המלכותי העמיק אברהם הכהן גם את מעורבותו בענייני קהילת מצרים. המינויים בתוך קהל הרבניים היו בסמכותו של הגאון, אבל הקובע והפוסק האחרון היה הרַאיס אלַיַהוּד. מכתבי הגניזה עולה שאברהם פסק במינויים הקהילתיים השונים, כגון פיטוריו של השוחט ומינויו של שוחט חדש, ובעיקר היה הפוסק האחרון בנושא מינויו של מנהיג הקהל החדש במקום אפרים בן שמריה שנפטר, הלוא הוא עלי בן עמרם.[62]

הרמזים לאפשרות כי אברהם הכהן הרופא התמנה למישרת הרַאיס אלַיַהוּד עולים מעוד כמה מסמכי גניזה. בשנת 1055 בערך ראה הגאון דניאל בן עזריה לנכון להעניק לאברהם הכהן תואר נוסף על כל תאריו, ,הוד הזקנים; והסביר: ,וכך יהיה סדר התארים: אדירנו ואצילנו ואבירנו כבוד גדולת קדושת מרי ורבנא אברהם הכהן שר העדה הוד הזקינים פאר הכהנים; כן ציווה הגאון להורות על תפילות לכבוד אברהם בבתי הכנסת בכל קהילות ישראל והכריז כי קהילות העיר פֶסטאט נתונות באופן מוחלט למרותו ולהחלטותיו של אברהם.[63] הגאון הרבה לשבח את מעמדו הגבוה של אברהם בחצר, את קירבתו לוזיר, את יכולתו לפעול ולהשיג דברים מן הוזיר, גם לטובת הכלל וגם לטובת דניאל באופן אישי, והוא מכנהו: ,השר הגביר שר העדה הוד הזקינים פאר הכהנים הבכיר בעם יי׳.[64]

קודמיו של אברהם במישרה היו כנראה כפי שציינתי לעיל, חֶסֶד התֶסתַרי ודויד הלוי בן יצחק. לחסד התֶסתַרי העניק הגאון שלמה בן יהודה את התארים: ,הזקן האדיר׳ ו׳זקן בית ישראל׳;[65] והוא קורא לו במכתביו ,השר הגביר הזקן האדיר׳; בדיוק כפי שקוראים לאברהם הכהן ,השר הגביר׳ ואחר כך שורת התארים הנלווים, ללמדנו על מעמדו בחצר.[66] באותה מידה הירבה שלמה בן יהודה לשבח את חסד התֶסתַרי על מעשיו למען הכלל ולמענו באופן אישי

60 ,אלאצול פי הדה אלנעמה׳: T-S 24.56, ע״ב, שורה 8, גיל, ארץ ישראל, ב, מס׳ 355. נְעמה: חסד מלכות רשמי. ראה: ברקת, שפריר, 37, ושם בהערות ביבליוגרפיה נוספת; סלע, תולדות התואר, 260, הערה 13.

61 T-S 13J7.6, שורה 2, גיל, ארץ ישראל, ב, מס׳ 404. משחקי מלים דומים לבעלי התואר הזה, ראה: סלע, ראשות היהודים, בפירושה לשורה 18 בע״ב בנספח א.

62 T-S 24.56, ראה לעיל, הערה 58, ע״א, בעיקר שורות 21–32; T-S 13J26.18, גיל, ארץ ישראל, ב, מס׳ 356. לדעתי זהו מכתב מדניאל בן עזריה אל אברהם הכהן, על פי הנימה האינטימית והמידע הכרוך בקהילה ובראשיה והוא דומה בסגנונו ובתוכנו למכתבים אחרים שכתב דניאל בן עזריה לאברהם הכהן. אמנם גיל, שם, חושב שהמכתב מיועד לירושלמי הנמצא בפֶסטאט ואינו נוקב בשמו; T-S K25.244, ראה לעיל, הערה 52, את הסתייגותו של גויטיין. מאמר מפורט שלי על עלי בן עמרם ועל מעורבותו של אברהם הכהן בפרשת מינויו לראש הקהל: א׳ ברקת, ,,החבר המעולה או הבוגד המעולה; מנהיג שנוי במחלוקת,״ *AJSR*, 23/2 (1998) א–כז; (להלן: ברקת, עלי בן עמרם). גם על קודמו של אברהם, דויד הלוי בן יצחק, מספרים המכתבים דברים דומים, ראה: סלע, ראשות היהודים, 262–263.

63 BM Or 5544.8, גיל, ארץ ישראל, ב, מס׳ 354. סדר התארים בשורות 2–4; Mosseri V 328, פתיחת מכתב מדניאל בן עזריה אל אברהם הכהן, שם, מס׳ 359.

64 Bodl. MS Heb. a 3, f. 17, ע״א, שורות 1–2. השבחים מפוזרים לאורך כל המכתב, גיל, שם מס׳ 357. גויטיין, חברה, ה: 579, הערה 47 חושב שהתואר, הבכיר בעם יי׳ הוא תואר נוסף שהעניק דניאל בן עזריה לאברהם הכהן, תואר חילוני, כפי שגויטיין מגדיר זאת.

65 ,הזקן האדיר׳: T-S NS 321.2, שורה 5, גיל, ארץ ישראל, ב, מס׳ 133. ,זקן בית ישראל׳: T-S 13J17.17, שורות 9–10, שם, מס׳ 64.

66 Bodl. MS Heb. c 28, f. 8, שורה 21, גיל, ארץ ישראל, ב, מס׳ 60.

עזריה לאברהם הכהן את התואר ,פאר הכהונה; עם זאת הפציר באברהם שלא יגלוש בעת שיחותיו עם השליטים המוסלמים לנושאים רגישים כגון פולמוסים דתיים, דבר שעלול היה לעורר את חמתם.[53] המאמצים המשולבים נשאו פרי. בסוף שנת 1052 כבר התמנה דניאל בן עזריה גאון ארץ ישראל, אך עדיין לא קיבל את הסְגִ׳ל, את המסמך הרשמי מן הח׳ליפה. גם בעניין זה התבקש אברהם לסייע ולשלוח לדניאל בן עזריה את הסְגִ׳ל, עובדה המעידה על מעמדו בחצר וקשריו עם הוזיר.[54]

מעמדו הבכיר של אברהם בחצר הח׳ליפה וקשריו הבלתי-אמצעיים עם הוזיר העמידו אותו בעמדה שבה יכול היה לסייע לא רק לגאון, אלא לכל יחיד או קבוצת אנשים, בארץ ישראל או במצרים, שנזקקו לעזרה.[55] כל אלה שפנו לעזרתו הרבו לחלוק לו שבחים ותארי כבוד. הגדיל מכולם הגאון, דניאל בן עזריה, בהזמינו את ,שר העדה, פאר הכהונה׳ להצטרף אליו לתפילה בבית הכנסת של הירושלמיים ברמלה.[56]

באמצע שנות החמישים בשלו התנאים לדעת אברהם הכהן לעבור לקהיר, קרוב יותר לחצר הח׳ליפה, ולפעול למען השגת המינוי הנכסף ,רַאיס אליַהוּד׳;[57] ייתכן שבסביבות שנת 1055 קרה משהו לקרא איש הכספים דויד הלוי בן יצחק, שהיה לכאורה הרַאיס אלַיהוּד האחרון, אולי חלה, ודבר זה המריץ את אברהם הכהן לעבור לקהיר. עם מעברו לקהיר הציעו לו מן החצר מינוי למישרה רמה, כלשון הכתוב,גלאלה מנזלתה׳ – מעמדו הנעלה. הדעת נותנת כי מדובר במישרת הרַאיס אלַיהוּד.[58] הדברים כתובים במכתב שכתב הגאון דניאל בן עזריה לאברהם הכהן. במכתב משובצים ביטויים מן הלשון הדיפלומטית הפאטְמית. הגאון מזכיר ,חצול ערץ אלסגל׳; כלומר, השגת העתקה של הצו המלכותי של הח׳ליפה. סְגִ׳ל הוא המונח הדיפלומטי הפאטְמי לכתב מינוי רשמי מלכותי.[59]

מס׳ 399 וראה בעיקר הערתו לשורה 11 בע״ב של המכתב. אמנם גויטיין, היישוב, 147, הערה 48, סבור שמישהו אחר כתב את המכתב ואברהם הכהן רק נזכר במכתב.

53 T-S 13J8.8, מכתב משנת 1051 מדניאל בן עזריה לאברהם הכהן, גיל, שם, מס׳ 352. המנעות מנושאי דת: שורות 6–8. ,פאר הכהונה׳: שם, שורה 1; T-S 10J15.7, שורה 3, פתיחת מכתב מדניאל בן עזריה אל אברהם הכהן, גיל, שם, מס׳ 361.

54 Mosseri Va8, מכתב מדניאל בן עזריה אל אברהם הכהן, גיל, מילואים, מס׳ 353a, שורות 19–20.

55 T-S 13J7.6, נכתב מקבוצת אנשים מארץ ישראל אל ,אברהם הכהן זקן הבין והדע׳; הם מבקשים את תיווכו של אברהם אצל הוזיר בעניין התאנותו של מושל העיר הנוצרי אליהם, גיל, מילואים, מס׳ 404; T-S Misc. 25.106, מכתב משנת 1053 של יפת בן דויד בנושא ההשגחה על השחיטה בפָסטאט אל הגאון דניאל בן עזריה. בשורה 9 נזכר ,אבו אצחאק רב אברהם המשוש שצ׳ בתור המתווך בין הגאון לבין יפת בענייני השחיטה. אולי זהו אברהם הכהן, גיל, ארץ ישראל, ב, מס׳ 401. וראה: ברקת, שפריר, 130–132. מעשיו אלה דומים מאוד למעשיו של דויד הלוי בן יצחק, ראה: סלע, ראשות היהודים, 261, הערה 19.

56 T-S 10J9.28, פתק של דניאל בן עזריה, כנראה משנת 1054 אל אברהם הכהן, גיל, שם, ב, מס׳ 349; T-S 8J19.10, פתק של דניאל בן עזריה הממליץ על פלוני הזקוק לעזרה בפני אברהם הכהן, שם, מס׳ 360.

57 Bodl. MS Heb. a 3, f. 17, גיל, שם, מס׳ 357. מכתב מדניאל בן עזריה אל אברהם הכהן. בע״א, שורה 12, מביע דניאל צער על שאברהם חזר למצרים ועזב את ארץ ישראל. במעין בע״ב: ,יגיע אל אדוני ורבי הנכבד אבו אסחק אלקאהרה׳;

58 T-S 24.56, מכתב משנת 1055 בערך של דניאל בן עזריה אל אברהם הכהן, גיל, שם, מס׳ 355. התיארוך המשוער הוא של גיל. בע״ב, שורות 26–34, מזכיר דניאל בן עזריה את מעברו של אברהם למצרים ואת המינוי הרם שהוצע לו, ראה את הביטוי הנזכר בשורה 29. הגאון חוזר ומזכיר את תמיכתו של הוזיר בו הודות להתערבותו של אברהם הכהן, ע״א, שורות 4–10. בשוליים ימין, שורה 2, נזכר אַבּוּ נַצר, הוא כנראה דויד הלוי בן יצחק, וזהו מכתב הגניזה האחרון שדויד הלוי נזכר בו, ראה לעיל, הערה 14. על סופו של דויד הלוי בן יצחק ראה: סלע, ראשות היהודים, 272.

59 חצול ערץ אלסגל׳: שם, ע״א, שוליים ימין, שורה 16. סְגִ׳ל: צו רשמי מלכותי, ראה: גיל, ארץ ישראל, ג:710, על פי המפתח; סלע, תולדות התואר, 258–260, ושם בהערות ביבליוגרפיה נוספת.

למופת בעיני אנשי ישיבת ארץ ישראל ובעיני מנהיגי הקהלים במצרים כאחד.[47] שלמה בן יהודה נתן בו אמון ללא מצרים ואפילו התלונן באוזניו על התנהגותו של יוסף הכהן בן שלמה גאון, שהיה אב בית הדין של הישיבה, אך כזכור היה גם בן דודו של אברהם הכהן עצמו.[48]

האמנם רַאיס אליַהוּד

עלייתו של אברהם הכהן לשיא מעמדו בחצר הח׳ליפה כרוכה בתקופת גאונותו של דניאל בן עזריה. הגאון שלמה בן יהודה נפטר באפריל 1051.[49] עד ספטמבר 1052 נאבקו שני טוענים לגאונות על המישרה הרמה: יוסף בן שלמה הכהן גאון ודניאל בן עזריה, צאצא למשפחת ראשי הגולה בבבל.[50] אברהם הכהן נקט עמדה ברורה לטובת דניאל בן עזריה, למרות שהטוען נגד דניאל בן עזריה, יוסף הכהן, היה בן דודו של אברהם. יש להניח שאברהם הכיר היטב את שני הטוענים וראה עדיפות ברורה לדניאל בן עזריה מצד אופיו, כישוריו ויכולתו על פני בן דודו עצמו ובשרו. לאברהם היו קשרים עם דניאל עוד משנות השלושים, ובהעדפתו זו הלך בדרכי אביו יצחק, שגם הוא העמיד את העניין הכללי לפני העניין המשפחתי. אבל אולי העריך אברהם שדניאל בן עזריה יוכל לסייע בידו לקבל את המינוי למישרת רַאיס אליַהוּד. לדניאל בן עזריה היה לובי חזק ביותר בפֻסטאט, ואברהם קיווה שבבוא העת יוכל להסתייע בידו. כשהגיעה שעת ההתמודדות, עמד אברהם הכהן לצידו של דניאל בן עזריה.[51] כאמור, נמשך המאבק הזה לאורך כשישה-עשר חודש. בראשונה הצליח יוסף הכהן לגייס לצידו את השלטונות הפאטִמים המקומיים, ודניאל בן עזריה ביקש מידידו אברהם הכהן שיפעיל את השפעתו אצל הוזיר, כדי שהלה יורה לשלטונות המקומיים לשנות את דעתם.[52] לאות תודה על עזרתו העניק דניאל בן

47 T-S 13J31.8, מכתב משנת 1048 משלמה בן יהודה לסַהלאן בן אברהם, ראש קהל הבבליים בפֻסטאט. בשורה 6 הוא מזכיר שכתב מכתב גם ל,משוש; הוא אברהם הכהן, ראה: מאן, יהודים, א:83; T-S 13J21.4, פיוט שכתב אותו סַהלאן לכבוד ,אבו אסחק אברהם; הוא אברהם הכהן, ברקת, שפריר, 180, הערה 59. על סַהלאן בן אברהם ראה: שם, 172–189; BM Or 5542.30, מכתב משנת 1050 מאליה הכהן בן יעקב אלסְקִלי אל אברהם הכהן ברמלה. אליה ביקש תמיכה וצדקה ואיחל לאברהם הכהן בן זכר, גיל, מילואים, מס׳ 439a.

48 T-S NS J 19, מכתב בכתב ידו של אברהם בן הגאון בשם הגאון שלמה בן יהודה משנת 1050. אבל בסוף המכתב נזכרים ,חמודיו; כלומר בניו של מקבל המכתב. אם כך אולי אין זה אברהם הכהן. לפי ידיעתי בשנה זו עדיין לא נשא אישה, גיל, ארץ ישראל, ב, מס׳ 149.

49 גיל, שם, א:561.

50 שם, 588–591.

51 NA NS 21.2, ביחד עם T-S AS 145.185, ביחד עם ENA 4046.2, מכתב מסחרי מדניאל בן עזריה בצור אל אברהם הכהן בפֻסטאט, גיל, שם, ב, מס׳ 347. בשורה 15 נזכר אביו של מקבל המכתב, כלומר הדבר היה לפני מותו של יצחק; T-S 8J10.5, מכתב מירושלים אל אברהם הכהן. הכותב מתלונן על המצב בישיבה ומודיע על נאמנות לבית דויד, כלומר לדניאל בן עזריה. הכותב פונה אל מקבל המכתב בלשון: ,בני המכובד, אדוני ורבי אבא אסחק׳ (ע״ב, שורות 1–2). האם פירוש הדבר שכותב המכתב הוא יצחק הכהן והדבר היה לפני 1038? אולי אין זו אלא לשון קירבה ואין הכותב אביו של אברהם? גיל מציע שהשנה היא 1050.

52 T-S 10J20.8 ביחד עם T-S 10J5.22, מכתב משנת 1051 מדניאל בן עזריה אל אברהם הכהן, גיל, ארץ ישראל, ב, מס׳ 353. דניאל פונה אל אברהם בתואר ,אלרייס אלגליל; כלומר הראש הנכבד. האם כבר נרמז פה מינויו של אברהם הכהן למישרת ראש היהודים? או שמא אין זה אלא תואר של כבוד בלבד? דבר דומה לזה בדיוק אפשר לראות אצל דויד הלוי בן יצחק, ראה: סלע, ראשות היהודים, 261, הערה 18. גם אברהם הכהן עצמו מתאר כיצד סייע בידי דניאל בן עזריה להתמנות על ידי התערבותו לטובתו בקהל פֻסטאט, T-S K25.244, ע״א, שורות 17–36, מכתב מאברהם הכהן אל דניאל בן עזריה, גיל, שם,

ממכתב ניחומים של אליהו הכהן בן שלמה גאון לבן דודו אברהם.[38] על פי הניסוח הזהיר של המכתב ניתן לשער שמותו של יצחק היה כרוך במאורעות מדיניים מסויימים.[39] בדעתנו את דרכי החצר הפאטמית ואת קירבתו של יצחק לחצר ולמושלים הפאטמים, הדבר מתקבל על הדעת.[40] מכאן ואילך נזכר שם האב יצחק במכתבים שונים רק בלוויית ברכת המתים.[41]

בין השנים 1034 ל–1042 טלטלה את העולם היהודי מחלוקת גדולה בין שני טוענים לכתר הגאונות בארץ ישראל: הגאון בפועל, שלמה בן יהודה, והטוען לכתר הגאונות נתן בן אברהם.[42] על פי כמה רמזים במכתביו של שלמה בן יהודה ניתן לשער שאברהם הכהן היה בין תומכיו.[43] סביר להניח שגם נתן בן אברהם היה מעוניין בתומך רב השפעה כאברהם הכהן הרופא, היוצא ובא בחצרות שליטים, וניסה לקשור עמו קשרים, אך ללא הצלחה.[44] בסוף שנת 1041 הפעיל אברהם את קשריו בחצר הפאטמית וכתב לח׳ליפה מכתב בשם כל תומכי שלמה בן יהודה בבקשו מאת הח׳ליפה להכריע לטובת הגאון בפועל. במכתב הזה תקף אברהם הן את האחים החַסַתַרים והן את דויד הלוי בן יצחק, הסוחרים הקראים אנשי החצר ולכאורה בעלי המישרה ,רַאיס אליַהוּד; עובדה המצביעה על כך שכבר אז התחיל אברהם במערכה על השגת המינוי למישרה הנעלה, שלא היתה רמה ממנה, של ראש היהודים בממלכה הפאטמית.[45] שלמה בן יהודה הצליח לקיים בידו את הגאונות, גם בעזרת ידידו רב ההשפעה אברהם הכהן. בסוף שנת 1042, לאחר שנפלה ההכרעה לטובתו, כתב הגאון המנצח מכתב תודה לידידו. במכתב ציין לשבח את השפעתו של אברהם אצל ,המושל בעיר הקודש; ,גדולי העיר; ,השליט הגדול אשר ברמלה; כלומר פקידים מוסלמים גבוהים, מושלי הערים בארץ ישראל, וכן אצל ,אדוננו המלך הגדול; הוא הח׳ליפה, ו׳אדוננו המשנה האביר; הוא הוזיר.[46] שמו של אברהם הכהן היה

38 T–S 13J23.12, מכתב ניחומים לאברהם על מות אדם קרוב לו ביותר. יש להניח שמדובר באביו, גיל, ארץ ישראל, ג, מס׳ 414. גיל מתארך שם את המכתב לשנת 1030, אך בשנת 1038 חתם אברהם הכהן על זכרון דברים וציין את שם אביו ללא ברכת המתים, דבר שלא היה עושה לו כבר נפטר אביו. ראה: גיל, שם, ב, מס׳ 229, וראה: פרידמן, עיטור, 202.

39 מאן, יהודים, א:84; פרידמן, עיטור, שם; גויטיין, חברה, ב:243; גיל, ארץ ישראל, א:455, הערה 779.

40 ראה למשל את מותם של שני האחים החַסַתַרים, גיל, התסתרים, 41–42.

41 T–S 13J19.18, פיוט או תחילת מכתב ל,אברהם הכהן השר הרופה (כך במקור) . . . בן מר יצחק בן פורת כהנא בצרור החיים נפשו צרורה . . . ; מאן, יהודים, ב: 86; T–S 8J14.24, פתיחת מכתב מאת שלמה בן מאיר ראש הסדר אל ,אברהם כהנא שר העדה פאר הכהנה . . . בן . . . יצחק הכהן זקן הקהילות זל . . . ; שם, עמ׳ 54. על שלמה בן מאיר ראה: גיל, ארץ ישראל, א:536–538.

42 גיל, שם, א: 562–583. על התיאורוך: א׳ברקת,,,עוד על אפרים בן שמריה,״*HUCA* 61 (1990), החלק העברי, כה–מ. ראה גם: ברקת, שפריר, 94–95.

43 T–S 13J23.1, מכתב משנת 1039 של שלמה בן יהודה אל אפרים בן שמריה, ראש קהל הירושלמיים בפֻסטאט. המכתב דן במחלוקת עם נתן בן אברהם. בשורה 27 הוא מבקש מאפרים שיתן את כל המכתבים אשר כתב אליו בידי ,המשורר כדי שיעבירם אל המַגרִבּ. ,המשורר הוא אולי אברהם הכהן (אך אולי אינו אלא אברהם בן דויד בן סְגמאר? ראה: ברקת, שפריר, 147–148), גיל, ארץ ישראל, ב, מס׳ 126, וראה: מאן, יהודים, א:143; Mosseri Ia4 (L.1), מכתב משנת 1040 מאת שלמה בן יהודה אל אפרים בן שמריה בעניין המחלוקת עם נתן בן אברהם. בשורה 30 נזכר ,משוש הישיבה; גיל, שם, מס׳ 130.

44 ENA 4010.40, בפסח 1039 כתב נתן בן אברהם לאברהם הרופא מכתב ברכה קצר, שבו הרעיף עליו תארים ,וזקננו נכבדנו שר העדה וכתר הבחורים׳ (שורה 1), וסיפר לו ששלח אליו שליח כדי שיתאם את ביקורו של נתן בן אברהם בביתו של אברהם הרופא, אך השליח לא מצאו בביתו. יש מקום להניח שאברהם הכהן השתמט מפני ביקור זה, גיל, שם, מס׳ 183, וראה: שם, א:568–569.

45 Bodl. MS Heb. b 18, f. 21, ביחד עם T–S Arabic Box 30.278, טיוטות ומכתב לח׳ליפה בכתב ידו של אברהם הכהן, גיל, ארץ ישראל, ב, מס׳ 197, ושם ביבליוגרפיה נוספת. תקיפת התַסַתַרים ודויד הלוי, שם, ב:350, שורות 7–13; 351, שורות 19–22; 355, שורות 11–12.

46 T–S 13J15.11, מכתב בכתב ידו של שלמה בן יהודה, גיל, שם, מס׳ 132.

שלמה בן יהודה היה הגאון שטיפח בקפידה את הקשרים עם קרובי משפחתו רבי ההשפעה, יצחק הרופא ובנו אברהם, משום שנזקק לעזרתם בסוגיות שונות שדרשו מגע עם השלטונות הפאטמים. מבין השניים היה הבן אברהם הרופא הבולט בכשרונותיו ובקשריו עם המושל ברמלה. זוהי הסיבה שבזכותה כבר בסוף שנות העשרים העניק הגאון שלמה בן יהודה לאברהם את התואר הנישא ,שר העדה׳.[34] התואר ,שר׳ נתייחד בכתבי הגניזה לאישים שמילאו תפקיד רשמי בחצר החליפה, והגאון הוסיף נופך שם בהעניקו לאברהם את התואר ,שר העדה׳.[35] ואכן, הצדיק אברהם הכהן הרופא את כל התקוות שתלו בו הגאון ואנשי הישיבה. לאורך כל שנות השלושים התבקש אברהם להתערב אצל השלטונות הפאטמים ברמלה ובמצרים בעניינים שונים לטובת הישיבה ולטובת אנשים פרטיים, וגם נהג לשלוח כספים לעזרת הישיבה ולעזרת נזקקים בארץ ישראל.[36] בעשור שנים זה ישבו יצחק ואברהם בעיקר ברמלה, אך לפי בקשות שהופנו אל אברהם תכופות על ידי אישי הישיבה, הגיעו כנראה מפעם לפעם גם לפֻסטאט.[37] בסוף שנות השלושים, אחרי שנת 1038, נפטר יצחק הכהן, אביו של אברהם. הדבר עולה

34 ENA 4020.32, שורות 7, 26, גיל, שם, ב, מס׳ 100. זהו מכתבו של שלמה בן יהודה ליצחק הרופא משנת 1029. הגאון מרדה ליצחק על תמיכתו בו במחלוקת בעניינן מינוי בפֻסטאט. הוא מרבה להרעיף עליו שבחים, מליצות וברכות, אך מזכיר בשוליים: ,נאמר לי כי שר העדה . . . נסע להשתתף בהלווייה, אילמלא כן הייתי כותב ומודה לו . . . הלא הוא עדיף, כאז כן עתה . . . ׳; התרגום של גיל.

35 משמעות המונח ,שר׳: ראה: כהן, ממשל עצמי, 166–168; כהן, קשרים, 125–126; ברקת, שפריר, 312 על פי המפתח. וראה: גיל, ארץ ישראל, א:455, הערה 779. הגאון שלמה בן יהודה כינה עוד איש אחד בתואר ,שר העדה׳ בשנת 1048. האיש הוא טוביה, והגאון אומר עליו כי הוא עשיר ופועל בעזרת ממונו. אין לנו כל מידע על טוביה זה ועל מעשיו. ראה: גיל, שם, ב, מס׳ 147, ע״א, שורות 13–26.

36 Bodl. MS Heb. C 28, f. 67, מכתב של שלמה בן יהודה אל אברהם הכהן משנת 1030, מבקש ממנו שיתערב לטובתו אצל האמיר, גיל, ארץ ישראל, ב, מס׳ 101; Bodl. MS Heb. B 11, f. 1, מכתב של אברהם בן הגאון בשם אביו אל אברהם הכהן משנת 1030, מתלונן על קונניות נגד הגאון, שם, מס׳ 142; ENA 4020.65, כתב ידו של אברהם הכהן, מכתב אל החליפה נגד הכרה ברשות בבלית בארץ ישראל, משנת 1030, שם, מס׳ 312; T–S NS J 172, מכתב משלמה בן יהודה אולי אל אברהם הכהן, מבקש ממנו שישתדל אצל שלטונות המס במצרים עבור הישיבה, משנת 1034, שם, מס׳ 118, אך ראה הסתייגותו של גיל, מילואים, 307. לדעתי מתקבל על הדעת בכל זאת שהמכתב מיועד לאברהם הכהן; T–S 13J19.3, מכתב משנת 1035 מאברהם בן הגאון בשם אביו שלמה בן יהודה לאברהם הכהן, מבקש התערבותו לטובת משפחה מסויימת שביתה נגזל על ידי שותף מוסלמי. אברהם הרופא מתבקש לדבר עם השופט המוסלמי, גיל, ארץ ישראל, ב, מס׳ 117; T–S 13J14.5, מכתב משלמה בן יהודה אל אברהם הכהן. אברהם מתבקש להשתדל אצל הנגיד (אמיר מוסלמי) למען מוסלֵם אחד, גיל, שם, מ׳ 99; T–S 13J20.1, מכתב מאברהם בן שמואל השלישי משנת 1035 אל אברהם הכהן, מבקש את התערבותו בעניין הסגת גבולו של בית כנסת ברמלה על ידי מוסלֵם פלוני, שם, מס׳ 228; T–S 10J20.8, ביחד עם T–S 10J5.22, מכתב מדניאל בן עזריה לאברהם הכהן, בין היתר מדבר על נצרכים הזקוקים לסכום כסף גדול כדי לקנות חטים, שוליים ימין, שם, מס׳ 353; וראה שם, א, סי׳ 812. פעילותו הרבה של אברהם בענייני שתדלנות וכספים מזכירה מאוד את פעילותם של חסד התֻסתָרי ושל דויד הלוי בן יצחק קודמיו, ראה סלע, ראשות היהודים, 258–266.

37 רמלה: Bodl. MS Heb. B 13, f. 54, מכתב משלמה בן צמח סופר הישיבה אל אפרים בן שמריה בפֻסטאט משנת 1030. הוא מוסר דרישת שלום מ,אבי אסחק׳ הוא אברהם הכהן, שוליים ימין, שורות 11–13, גיל, ארץ ישראל, ב, מס׳ 207; ULC Add. 3358, זכרון עדות מרמלה בכתב ידו של אברהם בן שמואל השלישי משנת 1038, חתום ,אברהם הכהן בירבי יצחק עד׳; גיל, שם, מס׳ 229 ושם ביבליוגרפיה נוספת. פֻסטאט: T–S 10J11.28, מכתב מאברהם בן הגאון שלמה בן יהודה ליצחק הכהן ולבנו אברהם בפֻסטאט, שם, מס׳ 162; T–S 10J11.16, גרויטיין, היישוב, 119 מזכיר מכתב מאברהם בן הגאון אל יצחק הכהן ואל בנו. ייתכן שהכוונה לאותו מכתב כמו הקודם, ויש כאן טעות ברישום מספר התעודה; T–S 8J10.4, קטע שטר בכתב ידו של יפת בן דויד, סופר בית הדין של אפרים בן שמריה בקהילת פֻסטאט. השטר עוסק בפנייתה של אישה שבעלה נפטר ורכושו נשאר מופקד בידי יצחק הכהן, כנראה בן פֻראת. על יפת בן דויד ראה: ברקת, שפריר, 122–133.

המקראי, אפשר להניח שיצחק הרופא אבי אברהם ושלמה הכהן גאון היו אחים, שניהם בני יהוסף.[28] גם לגאון שלמה בן יהודה (כיהן בין השנים 1025–1051) היה קשר משפחתי באמצעות נישואין עם משפחת הכהנים הגאונים, ובאופן כזה גם עם אברהם הכהן בן יצחק, עובדה המסבירה את קירבתם היתירה, כפי שנראה להלן.[29] מכל הממצאים הללו עולה שיצחק הכהן הרופא ובנו אברהם היו בעלי ייחוס משפחתי מן המשובחים, בעלי קירבת דם למשפחת גאונים אחת ובעלי קשרי משפחה עם משפחת גאונים שנייה. מקירבה כפולה זו, מצד אחד למושלים פאטִמים, מכוח היותם רופאים ידועים, דבר שהעניק להם השפעה לא מבוטלת, ומן הצד האחר מכוח קירבת המשפחה לצמרת השלטון היהודית הנזקקת לבעלי השפעה בחצר כדי להיטיב את מצב היהודים, מסתברים גם התארים שהאב ובנו נעטרו בהם בשנות העשרים של המאה. את האב, יצחק הכהן הרופא, כינו בתואר ,זקן הקהילות;[30] את אברהם הבן כינו בתואר ,משוש הישיבה;[31] משמעותם המעשית של שני התארים לא נתבררה בוודאות. התואר ,זקן הקהילות' נמצא במאה האחת-עשרה רק בהקשר ליצחק הכהן, ויש להניח שקהילות פֶסטאט כולן, כולל הקראים, העניקו לו את התואר הזה לאות תודה על פעולותיו למענם.[32] התואר ,משוש הישיבה' היה מן התארים שישיבת ארץ ישראל נהגה להעניק לאישים שפעלו למענה. לאברהם העניק את התואר ככל הנראה הגאון שלמה בן יהודה.[33]

בן פרת, דודו של הראשון. ראה: גויטיין, היישוב, 93, הערה 19. אך בעמ' 157, הערה 84 הוא מסתייג מהצעתו הקודמת; וראה מ"ע פרידמן, „עוד על עיטור חתימתו של ר' אליהו בן גאון במכתבו לאברהם שר העדה", תרביץ מ"ט (תש"ם) 203, הערה 8; (להלן: פרידמן, עיטור). אך לדעתי מדובר באותו אדם, גם על פי התארים שהוא נושא. לדעתי אביו של יצחק היה יהוסף ולא פרת. עצם השימוש בוריאציות השונות מעיד על כך שפרת היה אחד מאבות המשפחה שעל שמו נקראה המשפחה כולה, או שהשם פרת אינו אלא כינוי למי ששמו יוסף (על פי ,בן פורת יוסף' בראשית מ"ט:כ"ב). הצביע ראשון על הזיהוי: מאן, יהודים, א, 85.

28 T–S 13J31.5, שורה 21, מאן, יהודים, ב, 85; גיל, ארץ ישראל, א, הערה 779. אמנם גויטיין מציע פירוש אחר לשם פרת העברי או פָּראת הערבי, המתכוונים לדעתו אל הנהר פרת, סמל השפע והנדיבות, גויטיין, היישוב, 93, הערה 18. ואכן, מבחינה לשונית, סביר יותר שהשם מתכוון לפרת ולא לפורת. אך אולי השתמשו כאן במשחק מלים מאולץ מבחינה לשונית, גם כדי להביע את הקירבה המשפחתית. ראה את משחק המלים פרת-פורת: T–S 10J11.28, שורה 1, גיל, ארץ ישראל, ב, מס' 162.

29 שלמה בן יהודה הוא המכנה את יצחק הכהן ,בן אלעם' (בן הדוד), ראה לעיל, הערה 25. על שלמה בן יהודה ראה: גיל, ארץ ישראל, א: 548–583.

30 ENA 4020.32, שורות 4, 11 ובמען, גיל, ארץ ישראל, ב, מס' 100, ובעוד מכתבים.

31 בכמה מכתבים שכתב הגאון שלמה בן יהודה לאישים בפֶסטאט, הוא מזכיר את ,המשוש; או משתמש במליצות שבהן משולבת המילה ,משוש; למשל: T–S 12.217, שורה 14, גיל, שם, מס' 86; Mosseri I a 290 (L) 20 שורה א1, שם, מס' 83, וראה שם למטה הערתו לשורה 1. מאן, יהודים, א, 129, מציע שהכוונה היא לאברהם הכהן הרופא שקיבל את התואר ,משוש הישיבה' מגאון ארץ ישראל, כנראה שלמה בן יהודה, שהוא הכותב של כל המכתבים האלה. וראה גם: גויטיין, היישוב, 210, שורה 24.

32 מאן, יהודים, א, 259. במאה השתים-עשרה העניקו את התואר ,זקן הקהילות' לאדם נוסף, ראה פרידמן, עיטור, 203, הערה 7. אבל נמצא קטע שטר שמציג לפנינו בעייה: T–S NS 324.67, ,יצחק הכהן השר לעדה הרופא בן . . . אברהם הרופא זקן הקהילות ברמלה נוח נפש . . .' מייפה את כוחו של יהודה בן משה, פרידמן, שם, עמ' 203. פרידמן סבור שמדובר בבנו של אברהם הכהן שאנו עוסקים בו, ולכן לדעתו מתעד השטר את המצב בארץ ישראל בסוף המאה האחת-עשרה. גיל, מילואים, 294, הערה 34, מניח שמדובר באביו של אברהם שאנו עוסקים בו. אני מניחה שכותב השטר טעה וכתב במקום שצריך לכתוב אברהם-יצחק, וההיפך. זהו המסמך היחיד בגניזה, בין עשרות מסמכים המזכירים את תארי השניים, שבו כתובים התארים הללו בהיפוך, ולכן יש להניח שכותב השטר טעה בשמות.

33 את התואר הזה העניקה הישיבה גם לאברהם בן דויד בן סַגמאר, ראה: גיל, ארץ ישראל, ג:705, על פי המפתח. מעניק התואר: ראה לעיל, הערה 31.

לכל אורך תקופות השלטון המוסלמי וגם הנוצרי.[19] יצחק הכהן בן פֶּראת (פרת), אביו של אברהם, שהיה רופא, נולד בפֶּסטאט, העיר המרכזית של מצרים לצד קהיר, וחי בה.[20] שמו נזכר משנות השלושים של המאה האחת-עשרה, ואולי עוד לפני כן, אך תמיד בהקשר לבנו המפורסם. מכאן יש להסיק שיצחק עצמו לא הגיע למעלות גבוהות בחצר הח׳ליפה.[21] בסוף שנות העשרים או בשנות השלושים עזבה המשפחה את מצרים ועברה לגור בארץ ישראל, בעיר רמלה.[22] ליצחק היו כנראה שני בנים, אברהם הרופא ובן נוסף שנזכר רק פעם אחת ויש להניח שלא התפרסם ולא היה רופא. בן זה נשאר לגור בפֶּסטאט.[23]

ייחוסה של המשפחה מתברר מכמה כתבי גניזה. אליהו הכהן בן שלמה הכהן גאון (שלמה הכהן היה גאון בשנת 1025) קרא לאברהם באחד ממכתביו: ,בן דודינו׳ וגם חתם בסוף מכתבו אליו ,בן דודך׳;[24] גם יצחק האב מכונה במכתבים בפשטות ,בן אלעם׳, בן הדוד, משמע, הוא ידוע בייחוסו ובקירבתו המשפחתית למשפחת הכהנים הגאונים וזהו כינויו.[25] פלוני איש סיציליה שכתב לאברהם הכהן מכתב תודה חתם בעַלאמה (סימן היכר) ,ישע יוחש׳; היא העַלאמה של משפחת הכהנים הגאונים, שלמה הכהן גאון ובניו, לאות השתייכותו של אברהם למשפחה זו.[26] ייתכן שגם שם המשפחה ,בן פרת׳ או ,אבן אלפֶּראת׳ מצביע על הקשר המשפחתי.[27] אביו של שלמה הכהן גאון היה יהוסף. אם השם פרת מצביע על ,בן פורת יוסף׳

19 לעיל הוזכר כבר מוּסא בן אלעזר, רופא החצר בימי הח׳ליפים הפאטמים הראשונים. נוסיף לכאן למשל את דמותו הידועה של הרמב״ם, רופא החצר של משפחת צַלאח אַלדין במאה השתים-עשרה. גם בנימין מטודלה מזכיר את הרופא היהודי שלמה המצרי, רופא החצר של הקיסר הביזנטי מנואל במאה השתים-עשרה, היהודי היחיד שהותר לו לרכב על סוס.

20 ENA 4020.32, שורה 4: ,. . . יצחק הכהן הרופא . . . ׳; גיל, ארץ ישראל, ב, מס׳ 100.

21 שלמה בן יהודה, לפני היותו גאון, כנראה בשנת 1015 בערך, כתב לפלוני כנראה בן אברהם בפסטאט, T-S 13J13.14, גיל, ארץ ישראל, ב, מס׳ 53. בע״א, שורה 20 בקצה, ניכרות האותיות ,כהנ׳; גיל מציע שם שאם היה כתוב שם כהנים, מקבל המכתב יכול להיות יצחק הכהן בן אברהם בן פֶּראת. סימני השאלה כאן הם רבים מידי. גם לא ברור לי אם אביו של יצחק הכהן היה אברהם או יהוסף, או אולי פרת. ראה להלן.

22 בשורה 32 באותו עמוד במכתב שהוזכר בהערה לעיל, מאיץ הכותב במקבל המכתב כי יעזוב את הארץ שבה הוא יושב ובה שבע רוגז. אם מדובר באמת ביצחק הכהן בן פֶּראת, אולי זה הזמן שבו עזב יצחק את פֶּסטאט ועבר לגור ברמלה. כפי שנראה להלן. אבל בשטר שכתב אפרים בן שמריה, מנהיג קהל הירושלמיים בפֶּסטאט, בין השנים 1019–1027, נזכר פלוני אברהם הכהן בתור נוכח בבית הדין, ואם זה אברהם שלנו, זוהי עדות לכך שעדיין חי בפֶּסטאט. השטר: T-S AS 162.148, א׳ברקת, יהודי מצרים 1007–1055 (ירושלים: מכון בן-צבי, תשנ״ה) מס׳ 80; (להלן: ברקת, יהודי מצרים). גם במכתב שכתבו לאפרים בן שמריה בשנת 1024 בקירוב, מוסרים שלום לאברהם הכהן, T-S 13J14.6, ע״א, שורה 30, שם, מס׳ 1. על אפרים בן שמריה ראה: ברקת, שפריר, 100–122.

23 T-S 13J34.11, מכתב משנת 1030 של שלמה בן צמח סופר הישיבה אל אפרים בן שמריה, מנהיג קהל הירושלמיים בפֶּסטאט. הוא מבקש מאפרים לסייע סיוע משפטי לאחיו של אברהם ,אבן אלעם׳ (בן הדוד), גיל, ארץ ישראל, ב, מס׳ 206.

24 מאן, יהודים, א: 84. וראה: T-S 13J23.12, שורה 9 ובחתימה, גיל, ארץ ישראל, ג, מס׳ 414, ובעוד מכתבים, ראה להלן. על שלמה הכהן גאון בן יהוסף ועל בנו אליהו ראה שם, א: 546–547 ושם גם על הקירבה המשפחתית הנדונה. ראה גם: שם, 453–455.

25 T-S 16.275 ביחד עם Dropsie 412, ע״א, שורות 11–12: ,. . . מר רב אברהם [שצ] בן מר רב יצחק הנודע בן אלעם . . . ׳; גיל, ארץ ישראל, ב, מס׳ 76, ובעוד מכתבים, ראה להלן.

26 BM Or 5542.30, שם, א: 455, הערה 779.

27 שם המשפחה בעברית ,בן פרת׳: ENA 4020.32, שורה 11, שם, ב, מס׳ 100, ובעוד מכתבים; שם המשפחה בערבית ,אבן אלפֶּראת׳ או ,אלפֶּראת׳: Bodl. MS Heb. C 28, f. 67, במען, גיל, ארץ ישראל, ב, מס׳ 101, ובעוד מכתבים. לעתים כתבו ,אבן אלפֶּראת׳ ולעתים ,אלפֶּראת׳; וגם בעברית לעתים כתבו ,בן פרת׳ ולעתים כתבו ,בן מר ור פרת׳; דבר זה מביא כמה חוקרים לחשוב שמדובר בשני אנשים: אברהם בן יצחק בן פרת, ואברהם

עדיין טעונה מחקר מדוקדק ולא ברור מעמדם של כל הנזכרים וסדר התמנותם, אם התמנו. אך ניתן להבחין במאפיינים של האישים הללו שבאו מן התחומים המוכרים: רופאי חצר רבניים, מנהיגים רבניים, אנשי כספים קראים.

הרַאיס אלַיהוּד שלכאורה נתמנה אחריהם היה הקרא, הסוחר ואיש הכספים חֶסֶד התֶסתַרי, בין השנים 1026 ועד להוצאתו להורג בשנת 1049/50. הוא ואחיו אברהם מימנו חלקית את פעילויותיהם של החִ׳ליפים אלטַ׳אהֵר ואלמֻסתַנצֵר ושניהם הגיעו לדרגות בכירות בממשל הפאטִמי.[12] יורשו של חסד התֶסתַרי היה דויד הלוי בן יצחק, קרא ואיש כספים, עוזרו ויד ימינו של חסד התֶסתַרי, שכבר בחייו של חסד פעל בתור משנה לחסד ומחליפו בעת העדרו.[13] דויד הלוי בן יצחק נזכר בתעודות הגניזה עד שנת 1055 בערך.[14] בינו לבין הרַאיס הידוע לנו הבא, רופא החצר יהודה בן סעדיה, שהתמנה בשנת 1062 או 1064, מפרידות כעשר שנים לא ברורות.[15] אחרי מות יהודה בשנת 1078 התמנה אחיו, מבורך בן סעדיה, שהיה גם הוא רופא חצר, ובימיו החל המאבק המשולש בין דויד בן דניאל הטוען לכתר ראש הגולה במצרים, לבין אביתר בן אליהו גאון ארץ ישראל ובין מבורך בן סעדיה, המחזיק במינוי הפאטִמי רַאיס אלַיהוּד.[16] על שני האחים בני סעדיה כבר ידוע לנו בוודאות שכיהנו במישרה של ראש היהודים.[17]

בתקופה זו בולטת בכתבי הגניזה דמות נוספת שמן הראוי לתת עליה את הדעת בהקשר לפנינו, הלא הוא אַבּוּ אִסחַק אברהם הכהן הרופא בן יצחק בן פָּראת. בדמותו דנו כבר כמה חוקרים בהקשרים שונים. אין בידי עדיין להביא כל תעודה חדשה הנוגעת בו, אך להלן אביא את ריכוז הידיעות עליו ואדון בהצעתי שהוא כיהן בתור רַאיס אלַיהוּד בין דויד הלוי בן יצחק לבין יהודה בן סעדיה, כלומר בין שנת 1055 לשנת 1062 בקירוב.[18]

משפחת רופאים בעלייה

יש לייחס את עלייתם של בני המשפחה במעלות ההשפעה בחצרות השלטון המוסלמי לעובדת היותם רופאים. הנתיב הזה של רפואה בתור בסיס להצלחה בחצרות השלטון ידוע לנו היטב

הראשונה; מילואים, הערות, תיקונים״ תעודה; מחקרים במדעי היהדות (תל-אביב: אוניברסיטת תל-אביב, תשנ״א) 296; (להלן: גיל, מילואים). וראה: סלע, ראשות היהודים, 256–282.

12 מ׳ גיל, התסתרים; המשפחה והכת (תל-אביב: אוניברסיטת תל-אביב, 1981) 37–43; (להלן: גיל, התסתרים); סלע, ראשות היהודים, 256–259.

13 גיל, ארץ ישראל, א:480, הערה 803; ברקת, שפריר, 21; סלע, ראשות היהודים, 265.

14 כנראה כתב הגניזה האחרון שבו נזכר דויד הלוי בן יצחק הוא בתעודה מס׳ 355, גיל, ארץ ישראל, ב, שם, בע״ב, שולייים ימין, מוסרים שלום לאבּוּ נַצר, הוא דויד הלוי בן יצחק.

15 כהן, ממשל עצמי, 159; גיל, ארץ ישראל, א:490.

16 ראה לעיל, הערה 8.

17 כהן, ממשל עצמי, 157–271.

18 החוקרים שעסקו בדמותו של אברהם הכהן בן יצחק: מאן, יהודים, על פי המפתח; ש״ד גויטיין, היישוב בארץ ישראל בראשית האסלאם ובתקופת הצלבנים (ירושלים: יד יצחק בן-צבי, תש״ם), על פי המפתח; (להלן: גויטיין, היישוב); גויטיין, חברה, על פי המפתח; גיל, ארץ ישראל, על פי המפתח. אמנם גיל, שם, א:489, קובע כי אישים אלה לא ראו עצמם מנהיגי היהודים, וגם השלטון הפאטמי לא ראה במישהו מהם רַאיס אלַיהוּד, אך נראה לי שהיום בידינו ראיות המצביעות אחרת; מידע נוסף פזור במחקרים שונים ואביא אותו להלן לפי הצורך. את הצעתי בדבר היותו של אברהם הכהן רַאיס אלַיהוּד כבר הבאתי בספרי. ראה: ברקת, שפריר, 30, הערה 129. כן הזכרתי את הצעתי גם במאמרי. ראה: ברקת, ראש היהודים, 42. אבל בשני המחקרים הללו רק הזכרתי את האפשרות ולא דנתי בה לעומק.

סלע וממשיכה את הדיון על רקע מחקריה. להלן אַראה שהיתה דמות-על כזאת, כפי שעולה באופן נסיבתי מרמזים שונים בכתבי הגניזה. למרות שזוהי דעת מיעוט, חשוב לפרסמה ולהביאה לידיעת קהל החוקרים והקוראים, על מנת לפתוח את הדיון ולחדד את הוויכוח. את הדיון הזה אני מייחדת אך ורק לתקופה שבה ישבה ישיבת ארץ ישראל בטח בירושלים, כלומר עד הכיבוש הסַלג׳וקי בשנת 1073 ומעבר הישיבה לצור שבא בעקבותיו. לאחר מכן לבשו הדברים צורה אחרת, כמתבקש מהשינוי בנסיבות המדיניות החיצוניות.[8]

בעזרת תעודות גניזה ומחקרים קודמים אציג להלן רשימה משוערת של האנשים שהחזיקו לכאורה במשרת ראש היהודים מראשיתה ועד ימי הכיבוש הסַלג׳וקי. לראשון המוזהה עם השושלת הפאטִמית ועם כיבוש מצרים על ידיה (969), אקרא בשמו הספרותי פלטיאל. לשאלת זיהויו כבר נדרשו חוקרים רבים, שהציעו הצעות שונות ומגוונות. מקובלת עלי הצעתו של ברנרד לואיס שעליו מסתמכת סלע במחקרה האחרון, שפלטיאל מזוהה עם מוסא בן אלעזר, רופאם של הח׳ליפים הפאטִמים אלמַנצוּר, אלמֻעִזּ ואלעַזיז (946–996), שאיתם עבר מן המַגרִב אל מצרים. הוא היה מייסדה של שושלת רופאי חצר שגם נשאו לכאורה במישרה הרמה של הרַאיס אליַהוּד, בניו יצחק וישמעאל, נכדו יעקב בן יצחק ונינו מוסא בן יעקב, עד שנת 1039.[9] אישים אלה הגיעו למישרתם בתוקף היותם רופאי חצר ואנו יודעים עליהם רק ממקורות ערביים. כתבי הגניזה אינם מזכירים אותם. לעומת זאת יודעים כתבי הגניזה לנקוב בשמות של אישים אחרים שפעלו בתקופה הנדונה, אף כי אינם מכתירים אותם בתואר רַאיס אליַהוּד. בין השנים 970–1026, בימיו של הח׳ליפה אלחאכִּם (996–1021) בלטו שמריה בן אלחנן ובנו אלחנן בן שמריה. האב ובנו לא היו חצרנים, לא רופאים ולא אנשי כספים, אלא עמדו בראש הקהילה היהודית בפֶסטאט וניהלו אותה ביד חזקה ובתקיפות בזכות אישיותם המרשימה ולמדנותם המופלגת. גם קהילות ישראל האחרות חלקו להם כבוד ועמדו תחת סמכותם. לכאורה ניתן להניח שהיו בעלי התואר רַאיס אליַהוּד.[10]

משפחה אחרת שמזכירים אותה הן בכתבי הגניזה והן במקורות מוסלמים, החל משנות השמונים של המאה העשירית היא משפחתו של מנשה אבן אלקַזָּאז (סוחר המשי), בנו עדי וצאצאיהם. הם היו קראים שנתמנו לעמדות מפתח בחצר הפאטִמית. מנשה היה הכּאתִּב (פקיד ממשל) הממונה מטעם השלטונות הפאטִמים על סוריה ועל ארץ ישראל, ישב בדמשק ופעל ממנה. בנו עדי ירש את מקומו. פעילותם ומעורבותם בייצוג היהודים בחצר הפאטִמית נזכרת בצורה בולטת בכתבי הגניזה ואולי הם שנתמנו למישרה. מכאן ואילך איישו את עמדות המפתח בחצר אנשי כספים קראים.[11] ככלל כל תקופתו של הח׳ליפה אלחאכִּם (996–1021)

8 החל מרגע היסטורי זה נתערערו כל הסדרים המסורתיים. דויד בן דניאל, בנו של דניאל הגאון בן עזריה, ניצל את הסדקים שניבעו בסדר הישן ובאופן חריג יצר מוסד חדש: ראש הגולה במצרים. ראש הישיבה הנדחק, אביתר בן אליהו, נלחם נגדו בכל כוחותיו והאמצעים שעמדו לרשותו (1080–1094). מכאן ואילך השתנו הסדרים, הגאון איבד את סמכויותיו ההיסטוריות וראש היהודים במצרים, שקיבל מאת הח׳ליפה את המינוי לייצג את כל היהודים, לקח לעצמו גם את התפקיד של ראש הרבנים, שהיה בעבר תפקידו של הגאון. ראה: מאן, יהודים, א:209–250; גיל, ארץ ישראל, א:606–626; כהן, ממשל עצמי, 213–272.

9 גיל, ארץ ישראל, א:297–298, ושם ביבליוגרפיה. עובדת היותם קראים עולה גם מן העובדה שהיו בקשרי משפחה עם דויד הלוי בן יצחק, שקראותו כבר ודאית היום, ראה: מ׳ גיל, „ארץ ישראל בתקופה המוסלמית B. Lewis, "Paltiel: a note," *BSOAS* 30 (1967) 177–181; סלע, תולדות התואר, 262–264 ושם גם ביבליוגרפיה מפורטת בדבר המחקרים וההצעות השונות לזיהויו של פלטיאל.

10 M. Cohen, "Administrative Relations between Palestinian and Egyptian Jewry during the Fatimid Period," in Cohen and Baer, eds., *Egypt and Palestine, A Millenium of Association (868–1948)* (Jerusalem: Ben-Zvi Institute for the Study of Jewish Communities in the East, 1984) 126, n. 47; (להלן: כהן, קשרים); סלע, תולדות התואר, 264–265; ברקת, שפריר, 150–151.

11 גיל, ארץ ישראל, א:297–298, ושם ביבליוגרפיה. עובדת היותם קראים עולה גם מן העובדה שהיו בקשרי משפחה עם דויד הלוי בן יצחק, שקראותו כבר ודאית היום, ראה: מ׳ גיל, „ארץ ישראל בתקופה המוסלמית

התואר המוסלמי רַאיס אלַיַהוּד, תואר שהוענק על-ידי הח׳ליפה הפאטִמי, הוענק במקביל גם התואר היהודי נגיד? ומי העניקו? מי היו ראשי היהודים? האם היו הגאונים, או שמא אנשי חצר כגון רופאים ואנשי כספים?[3]

היום, בעקבות מחקרה החדש של שולמית סלע, נראה כי הדעה שהעלו החוקרים בראשית המאה, כי התואר ונושאו אכן קשורים לשלטון הפאטִמי מראשיתו, ראוייה לבדיקה מחודשת.[4] במחקרה מציבה סלע שתי עובדות ישנות-חדשות: א. מישרת הרַאיס אלַיַהוּד התקיימה מאז ראשית השלטון הפאטִמי במצרים (969) וניתנה בידי חצרן יהודי, איש כספים או רופא, שרכש את אמון הח׳ליפה וקיבל את התואר ראש היהודים הטומן בחובו ראשות על שלוש העדות: הרבניים, הקראים והשומרונים בממלכה הפאטִמית. הווה אומר: בראש כל מגזר עמד המנהיג המוכר שלהם: בראש הרבניים עמד גאון ארץ ישראל, בראש הקראים עמד הנשיא שלהם ובראש השומרונים עמד הכהן הגדול. מנהיגים אלה שלטו באופן מוחלט על המגזרים שלהם, מינו ופיטרו בעלי תפקידים, אכפו את החוק וניהלו את כספי הציבור. אבל בפני השלטונות המוסלמים ייצג את כל המגזרים האדם שמונה על ידי הח׳ליפה למטרה זאת, הרַאיס אלַיַהוּד.[5] ב. ברבע השני (ואולי גם השלישי) של המאה האחת-עשרה היתה המישרה בידיים קראיות.[6]

בינתיים זוהי דעת יחיד של חוקרת אחת, ואין היא מקובלת על קהילת החוקרים של ימינו. חוקרים אלה טוענים כי כל הראיות שנמצאו בגניזה עד כה מעידים על כך שהגאון היה האיש שמינה את כל המינויים בקהילות שעמדו תחת רשותו. לטענתם אין כל עדות על סמכות מעל הגאון שעסקה במינויים כגון אלה.[7] אני, מכל מקום, הולכת בעקבותיה של

"The Title and Office of the Nagid: A Re-examination," *JQR NS* 1 (1910–11) 78–85; S. D. Goitein, *A Mediterranean Society* (6 vols.; Berkeley: University of California Press, 1967–1993) 2:23–40; M. R. Cohen, *Jewish Self Government in Medieval Egypt* (Princeton: Princeton University Press, 1980); (להלן: כהן, ממשל עצמי), בעיקר 3–50, 287–295; מ׳ גיל, ארץ ישראל בתקופה המוסלמית הראשונה (634–1099) (שלושה כרכים; תל-אביב: אוניברסיטת תל-אביב ומשרד הבטחון, תשמ״ג) א:487–489; (להלן: גיל, ארץ ישראל, בציון מספר הכרך).

3 דיון בשאלות אלה: א׳ ברקת, „ראש היהודים במצרים תחת שלטון הפאטמים: בדיקה מחודשת״ זמנים 64 (1998) 34–42; (להלן: ברקת, ראש היהודים).

4 S. Sela, "The Head of the Rabbanite, Karaite and Samaritan Jews: on the History of a Title," *Bulletin of the School of Oriental and African Studies* 57 (1994) 255–267; (להלן: סלע, תולדות התואר). ראה בעיקר: 255–256, והערות 2–3, ושם גם ביבליוגרפיה מקיפה על כל המחקרים הקודמים.

5 באופן תיאורטי אנו יכולים להניח כי המישרה היתה קיימת עוד לפני השלטון הפאטִמי, אולם אין בידינו עדיין להוכיח זאת. על המבנה המוצע של ההנהגה ראה דיון: ברקת, ראש היהודים, 40. וכן ראה: גיל, ארץ ישראל, א:419–421, 637–640, 661–664. וראה: א׳ ברקת, שפריר מצרים; ההנהגה היהודית בפוסטאט במחצית הראשונה של המאה האחת-עשרה (תל-אביב: אוניברסיטת תל-אביב, תשנ״ה) 100–122; (להלן: ברקת, שפריר) שם כתבתי על ראש קהל הירושלמיים, אפרים בן שמריה, שקיבל את כל תאריו וסמכויותיו מן הגאון. אולם על פי המבנה שאני מציעה הדברים מתקבלים: אפרים היה כפוף ישירות לגאון, שהיה ראש כל הרבניים, ולא לראש היהודים, שהיה סמכות-על. אולם אפרים סייע לגאון במערכת קשריו עם ראש היהודים, כפי שיוכח להלן.

6 סלע, תולדות התואר, 255, סוף הערה 2; ש׳ סלע, „ראשות היהודים בממלכה הפאטמית בידים קראיות״ משאת משה: מחקרים בתרבות ישראל וערב מוגשים למשה גיל (ירושלים: מוסד ביאליק, 1989) 256–282; (להלן: סלע, ראשות היהודים). תודה לש׳ סלע על שאפשרה לי לראות את טיוטות שני המאמרים בטרם ראו אור, ותודה כפולה על הערותיה למאמרי זה.

7 עדיין לא נכתבו מאמרי תגובה על מחקריה החדשים של סלע. את ההתנגדות שמעתי בעל-פה מפי חוקרים. רשימה אחת המתייחסת לדעות החדשות היא רשימתו של מ׳ כהן: M. R. Cohen, "Book Reviews," *Jewish History* 12 (1998) 140. ברשימת ביקורת זו על ספרי שפריר מצרים מביע כהן התנגדות לדעה המוצגת בספרי בנושא ראש היהודים והמתבססת שם על מחקרה של סלע.

שר העדה
אברהם הכהן הרופא בן יצחק בן פֻּראת

אלינער ברקת
אוניברסיטת בן-גוריון בנגב

Abraham ha-kohen b. Isaac ibn Furat

Elinoar Bareket
Ben-Gurion University

New research on Jewish leaders in the Fatimid Kingdom, along with a re-examination of related documents, has made it possible to compile a list of persons who served as *rais al-yahud* (Head of the Jews) in the Fatimid Kingdom in Egypt since it was conquered by the caliphs.

It can be seen that the kind of people who held this office changed according to the changing circumstances and needs of the caliphs. The first to hold the office were Rabbanites who obtained their position as a direct result of their status as court physicians. In the first half of the eleventh century, after a period of decline in the importance and power of the office during the reign of Caliph al-Hakim, the office was held by Karaites, who were great merchants and whose services were needed by the caliph. In the last third of the eleventh century the office returned to Rabbanite court physicians.

This list is still disputable and incomplete. It is unclear who held the office in the fifth and sixth decades of the century. In documents found in the Geniza the name of Abraham ha-Kohen b. Isaac ibn Furat stands out. Born in Fustat, and a physician like his father, he served many years as the Fatimid governor's physician in Ramla. By collecting what is already known about this man, and adding new information, it is possible to assume that he was the *rais al-yahud* in the fifth and sixth decades of the eleventh century. This assumption could well complete the picture of Jewish leadership in Fatimid Egypt, as well as adding to the understanding of the relationship between the *rais al-yahud* in Egypt and the Head of the Palestine Yeshiva, the *Gaon*.

שאלת ראש היהודים במצרים בתקופה הפאטמית כבר העסיקה חוקרים חשובים ורבים. במרכזה ניצבת סוגיית התיקוף: האם מישרה זו ראשיתה עם ראשית השלטון הפאטמי במצרים ובארץ ישראל, כפי שקבעו עם ראשית המחקר בנושא זה,[1] או שמא אינו אלא תולדה של נסיבות משתנות והתפתחות היסטורית, שנשאה פירות רק בסוף המאה האחת-עשרה, כפי שקבעו חוקרים אחריהם.[2] ושאלות אחרות, לא פחות חשובות: האם לאדם שהיה בעל

1 J. Mann, *The Jews in Egypt and in Palestine under the Fatimid Caliphs* (2 vols.; New York: Ktav Publishing House, 1970) 1:251–257; (להלן: מאן, יהודים).

2 S. D. Goitein, "ענייני נגידות במצרים בימי הביניים," ציון ד(תרצ"ט)135–143; ד' איילון (נוישטדט), "ענייני נגידות במצרים בימי הביניים," ציון ד(תרצ"ט)

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